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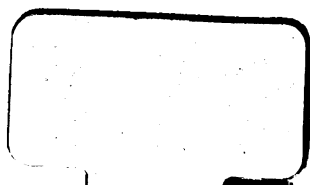
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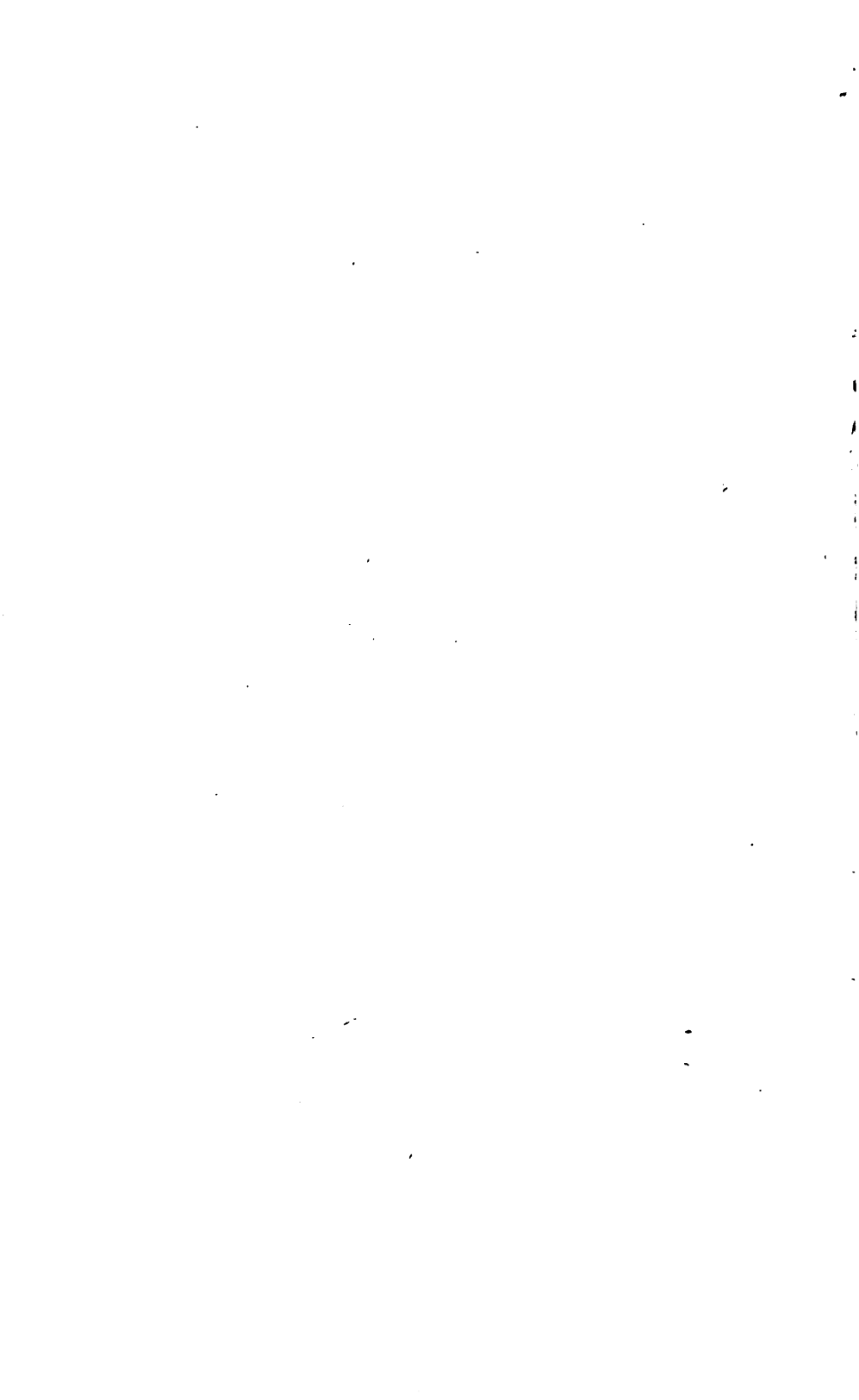
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OBSERVATIONS
ON
PENAL JURISPRUDENCE,
AND THE
REFORMATION OF CRIMINALS.
WITH
AN APPENDIX;
CONTAINING THE LATEST REPORTS
OF THE STATE-PRISONS OR PENITENTIARIES OF
PHILADELPHIA, NEW-YORK, AND
MASSACHUSETTS;
AND OTHER DOCUMENTS.

BY WILLIAM ROSCOE, ESQ.

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OBSERVATIONS
ON
PENAL JURISPRUDENCE, &c.

ON THE MOTIVES AND END OF PUNISHMENT.

A VERY sincere and strenuous advocate for a modification in the severity of our penal laws, whose various publications on this subject have greatly contributed to its full and impartial discussion, has lately published a Tract,* in which he contends, that the sentiment of *anger* is not only allowable in criminal jurisprudence, but that *attempts to extirpate it must be vain, and if successful would be injurious*;† in ad-

* *Some Enquiries respecting the Punishment of Death for Crimes without violence, by Basil Montagu, Esq.—Lond. 1818.*

† “That every check ought to be opposed to the horrid excesses of this turbulent passion; that we should be slow in believing the existence of enormity, and cautious not to be prejudiced by the sudden manifestation of guilt, is indispensable; but that attempts to extirpate *anger* must be vain, and if successful would be injurious, will be doubted only by those who have not reflected, or reflected but to little purpose, on their own natures.” p. 7.

dition to which he has referred to several authors, for the purpose of shewing that *the very spirit of criminal law has been said to consist in indignation against crime.** Nor will this sentiment be denied, as long as we attend to the sound and legitimate distinction that separates the criminal from the offence, and considers the one as a fellow creature to be, if possible, preserved—the other as a disease, to be, by every exertion, eradicated; but if we confound them together, so as to render the offender an actual object of our anger, hatred, and revenge, it is surely impossible to admit of such a proposition. That this is, however, the tendency of such an opinion, is apparent from the authorities adduced in its support; from which we learn, that “*vengeance is the foundation of all punishment, divine and human;*”† that “*revenge, when provoked by injury or voluntary wrong, is a privilege that belongs to every person by the law of nature;*” that “*the criminal law in all nations is entirely founded on it;*”‡ that “*every kind of satisfaction imposing a punishment on the delinquent, naturally produces a pleasure in the vengeance it affords to the party injured;*” that “*this pleasure is an actual gain, like Samson’s*

* *Some Enquiries, &c.* p. 8. † Letters from England.

‡ Lord Kaimes.

*honey extracted from the jaws of the lion ;” that “ it is a pleasure to be sought after, like all other enjoyments ;” that “ it is useful, or rather necessary to the public ;” that “ it is this feeling of revenge that loosens the tongue of the witness, that animates the accuser, and engages him in the service of justice ; that overcomes the public feeling of commiseration in the punishment of offenders ; that common moralists, always the dupes of words, cannot enter into these truths ; that the forgiveness of injuries is a virtue necessary to humanity, but it is only a virtue when justice has performed her office, when she has granted or refused a satisfaction ; that to forgive injuries before this be completed, is to invite people to commit them, and not to be the friend, but the enemy of the human race.”**

* “ Tout espèce de satisfaction entraînant une peine pour le délinquant, produit naturellement un plaisir de vengeance pour la partie lésée. Ce plaisir est un gain—Il rappelle la parabole de Samson—c’est le miel recueilli dans la gueule du lion. Produit sans frais, résultat net d’une opération nécessaire à d’autres titres, c’est une jouissance à cultiver comme toute autre ; car le plaisir de la vengeance, considéré abstraitement, n’est, comme tout autre plaisir, qu’un bien en lui-même. Il est innocent tant qu’il se renferme dans les bornes de la loi ; il ne devient criminel qu’au moment où il les franchit. Utile à l’individu, ce mobile est même utile au public, ou pour mieux dire, nécessaire ; c’est cette satisfaction vindicative qui délie la langue des témoins ; c’est elle qui anime l’accusateur, et l’engage

Can it then be necessary to demonstrate that benevolence, or *that* feeling which promotes the general good of all mankind, ought to be the motive of all our conduct? We may be mistaken in the direction of it; we may, by its injudicious employment, do an injury, when we intended to render a service; we may punish when we should pardon, and pardon when we should punish; but the *motive* ought ever to be the same. But anger disregards, and revenge disavows, the welfare of others. The only object of these passions is a blind and selfish gratification. The greater the misery they occasion, the greater is the pleasure they

au service de la justice, malgré les embarras, les dépenses, les inimitiés auxquelles il s'expose. C'est elle qui surmonte la pitié publique dans la punition des coupables, &c.

“ Je sais bien que les moralistes communs, toujours dupes des mots, ne sauroient entrer dans cette vérité. L'esprit de vengeance est odieux; toute satisfaction puisée dans cette source est vicieuse; le pardon des injures est la plus belle des vertus. Sans doute, ces caractères implacables, qu'aucune satisfaction n'adoucit, sont odieux, et doivent l'être. L'oubli des injures est une vertu nécessaire à l'humanité, mais c'est une vertu quand la justice a fait son œuvre, quand elle a fourni, ou refusé, une satisfaction. Avant cela, oublier les injures, c'est inviter à en commettre; ce n'est pas être l'ami, mais l'ennemi de la société. Qu'est-ce que la méchanceté pourroit désirer de plus qu'un arrangement où les offenses seroient toujours suivies de pardon ? ”

Bentham, ap. Dumont, De la Satisfaction Vindicative.

afford. With what propriety can it then be asserted, that vengeance is the foundation of human law? and how ought we to shrink from the rash assertion that represents it as the basis of divine justice?

“*Punishments*,” says an excellent writer, the strong decisions of whose judgment are always tempered by the milder features of benevolence and compassion: “*Punishments, as well as crimes, are evils; and whether inflicted by man, or the Deity, must have good for their ultimate object before we can pronounce them to be just. But that so much pain should be inflicted for so much guilt, resembles the LEX TALIONIS of fallible and vindictive man, rather than the measures of a perfect Being. Justice in the Deity must bear some resemblance to justice in man. It cannot be supposed to accumulate the evil of punishment upon the evil of crime, without some ulterior object; and if that purpose be called the satisfaction of the judge who punishes, we may still contend that this very satisfaction itself must be founded upon the good which punishment, at some time or other, and in some degree or other, will produce to some sentient being or other.*”*

But we are given to understand, that although vengeance is the stimulating motive, it should

* *Characters of C. J. Fox, by Philopatriæ Varvicensis*, vol. ii, p. 421.

only be employed to a certain extent, and kept within prescribed bounds; that when the law is satisfied and the punishment fully inflicted, and not till then, the feelings of revenge which we have cherished in our bosoms are to be relinquished:—nay, it is even hinted, that if the law refuses us satisfaction, our animosity must instantly be laid aside! Is it not, however, to be feared, that *the honey from the jaws of the lion* may, like the intoxicating gas, possess a charm for us, from which we may not be able to disengage ourselves? All vicious gratifications strengthen by indulgence. Of these, revenge is the most gross, and the most insatiable.

If we refer to the earlier periods of society, we shall indeed find, as might be expected, systems of legislation established, and punishments inflicted, upon the most absurd and irrational grounds; frequently from the impulse of resentment, or by way of retaliation, and not seldom for imaginary or imputed crimes.—Wherever we turn our eyes on past ages, we may observe the same insensibility to the sufferings of others, and the same propensity to, not to say eagerness for, the shedding of human blood. *An eye for an eye, a tooth for a tooth*, or the life of the offender as an expiation for his crime, were the rude and summary laws which in those days seemed the perfection of justice.

The invention of one portion of the community was continually on the stretch to devise modes of torture to keep the other in awe: the punishment of death was applied almost indiscriminately, and with every variety of form, to almost every species of crime. Torture, in different ways, was very generally employed; and when religious zeal began to mingle with secular enmity, the faggot and the flames were introduced to complete the horrors of the system.

This idea, of the necessity of severe and revengeful punishments, seems to have made such a deep impression on mankind, that even to this day it has never been obliterated. It is difficult for us to conceive that practices, however shocking to our natural feelings, which have received the sanction of so many ages, can be erroneous. We therefore continue to indulge, with little or no restraint, those sentiments of *anger* and *resentment*, which are excited by any violations of the laws which we have ourselves prescribed. These feelings gratify our pride, because they seem to be the result of our superior virtue. We consider ourselves for a moment as raised above the frailties of humanity, and our sympathy with it is destroyed. The assumption of perfect rectitude in ourselves, and the imputation of guilt to others, give rise to our vindictive feelings; and

a spirit of cruelty and persecution is awakened, which is sometimes carried to such an extreme, as perhaps to be scarcely less criminal than the offence which it is intended to avenge.

As long as this spirit prevails, it will be to no purpose to expect any substantial improvement, either in the administration of criminal justice, or in the manners and morals of the people. Laws, each more severe than the other, may be promulgated ; executions may take place weekly, and daily, in our streets ; but whilst we continue to pursue the methods at present adopted, crimes *will* continue to increase, both in frequency and enormity, till a general terror diffuses itself abroad, and the apprehension of individual and personal danger (already no imaginary alarm), points out the necessity of those more effectual regulations, which prudence, tempered with humanity, will alone be found competent to devise.

If we could divest ourselves of those resentful feelings which are too apt to take possession of our minds on the contemplation of acts of criminality, we should make one great step towards the discovery of a better system of jurisprudence, and prepare the way to an incalculable improvement in the condition of mankind. The correction of vice would then be no longer an exertion of the violent and hostile passions, but of the kind and benignant affections. By the most

salutary change, the very errors and crimes of the profligate would afford to the good an opportunity for the exercise of the highest virtues. The question would no longer be, whether stripes and bloodshed can prevail against guilt and ignorance, but whether sympathy, prudence, and compassion, have lost their influence on the moral feelings of mankind. If we could impress upon the mind of the delinquent, an idea that the efforts we are making are really intended for his welfare, our object would in a great degree be accomplished. There is no human being so stupid, or so wicked, as not to concur, to the utmost of his power, in measures evidently calculated to relieve him from misery. Even in those unhappy cases which involve a diminution, or aberration of intellect, recent experience has shewn, that by a mild, humane, and temperate treatment, the most salutary effects may be produced; and the unfortunate objects not merely placed in a state of comparative tranquillity, but in many instances restored to the full exercise of their powers.

Almost all writers have considered *crime* merely with relation to *punishment*, and their chief difficulty has been to apportion the latter to the former; but surely, a mere system or scale of crimes and punishments, however well defined and proportioned, would afford but a very rude and imperfect idea of that enlight-

ened legislation which the real interests of society require. The essence of *crime* is, that it introduces a certain degree of pain, or evil, into the world. The immediate effect of *punishment* is to introduce another degree of pain, or evil, often much greater than the first. Simply to punish, is therefore only to add to the miseries of the human race. If no beneficial alteration be effected, either in the disposition of the person punished, or on society at large, the punishment is a mere act of retribution or revenge. *Punishment*, strictly speaking, is therefore only allowable as a medium of reformation, to reclaim the offender, and secure society from further injury; and the degree of it must depend, not altogether on the nature of the offence, but on the necessity of employing such a medium. To one person it may be requisite to exhibit it in all its rigours, before a sufficient security can be obtained from the hardened disposition of the criminal for his future good conduct; whilst to another, a much less degree of severity may be sufficient. Instead, therefore, of connecting the ideas of *crime* and *punishment*, we ought rather to place together the ideas of *crime* and *reformation*; considering *punishment* as only one of the modes for effecting such reformation, the extent of which must always be proportioned to the necessity of the case.

It requires but a very slight acquaintance

either with the principles of human nature, or the history of civil society, to be convinced that *punishment*, simply and in itself, has never been found a sufficient preservative against the commission of crime—the first impulse of the mind upon the infliction of pain by way of punishment, is not contrition, but resentment; a hardening of heart, not only against those who inflict it, but against the rest of the world; and too often, it is to be feared, a resolution to balance the account, as soon as possible, by a repetition of the same, or the commission of a greater offence. Hence it has been shewn, by the experience of all ages, that as punishments have increased in severity, crimes have multiplied.* It is only by the calm exercise of reason,

* The following passage from a recent publication before referred to, will shew that the highly esteemed author, notwithstanding his justification of the feelings of *anger and revenge* against crime, is well aware of the unjustifiable extent to which such feelings may be carried, and is the firm and able advocate of moderation and humanity.—“*When we reflect,*” says he, “*upon the criminal codes of past ages, it may seem extraordinary that any reliance should now be placed upon the efficacy of severe laws; for if severity could have prevented crime, crime would long since have been exterminated, and we might look back with less remorse at limbs torn asunder by wild horses, at burnings, at impalements, at crucifixions, and the many sad barbarities inflicted by man in authority over his offending and unoffending fellow creatures.*”—*Some Enquiries, &c. by Basil Montagu, Esq.*

by removing the inducement or correcting the disposition to crimes, or by taking a sincere interest in the welfare of the offender, and convincing him that the evils he experiences are the unavoidable consequences of his own misconduct, and are inflicted upon him for his own good, that we can expect to produce any beneficial effect. Upon the practicability of this, is founded the great plan of modern improvement, called *The Penitentiary System*, the advantages of which are every day becoming more apparent, and which, when perfected by experience, cannot fail to produce the most important and the happiest results on the moral character and condition of mankind.

ON PUNISHMENTS BY WAY OF EXAMPLE.

“*THE proper end of human punishment,*” says Dr. Paley, “*is not the satisfaction of justice, but the prevention of crimes.*” By the satisfaction of justice he means, “*the retribution of so much pain for so much guilt.*” But having shewn, that *the prevention of crimes* is the great duty of the legislator, he hastens to a conclusion which cannot be conceded to him, and takes it for granted, that severe punishments *will* accomplish this purpose; contending that “*the ease with which crimes are committed or concealed, must be counteracted by additional penalties and increased terrors.*” A slight consideration will however shew, how little reliance can be placed on a mere system of severity, to whatever extent it may be carried; and that it rather serves to calm our fears, and flatter us with a dangerous security, than to remedy the evil. No person commits a crime, but under such circumstances, and with such precautions, as he thinks sufficient to secure

him from discovery. The greater or less degree of the punishment is therefore a matter of inferior account; and it would be much more advisable to endeavour to *diminish the inducement to the crime*, or even to *increase the chance of detection*, than to increase the punishment. The arm of the law is always defective, and in fact, guards only a small part of the province of human action; whilst an immense district is always open to the depredations of the profligate, who are acquainted with the lines of demarcation, and know how far they may venture with safety. The legislator denounces the penalty to be *positive and certain*, but the offender reads it conditionally, *if the crime should be discovered*. This is the only danger against which he has to provide, and in this, all the chances are in his favour. The choice of time and circumstance is in his own power, and these may frequently occur so fortunately, that detection may be impossible.* To compunction and remorse he is a stranger; and he therefore scruples not to secure his impunity from

* It is stated by Vickery, the Bow-Street officer, in his examination before the Committee of the House of Commons, that "*within one month, there was property stolen in the City of London, and particularly about Basinghall-Street, to the amount of 15,000*l.*, and he did not think that any one of those parties was ever known or apprehended, though they were sought after night and day.*"

one crime by the perpetration of another.— Thus, whilst the criminal disposition remains, the severest denunciations of punishment will be insufficient. The only effectual security against criminality must ultimately depend on those moral inducements and better dispositions which operate equally in darkness as in light. “ *Violent punishments,*” says Burgh, “ *become familiar, and are despised—a people are to be led like rational creatures, not to be driven like brutes. The severest punishment, under a mild administration, would be to convince the offender he has committed a foul crime.*”

It seems indeed a strange inconsistency in some writers on this subject, that whilst they contend that punishment is of no avail when used for the purpose of *reformation*, they still suppose that it may be advantageously resorted to for the purpose of *detering others from crimes*. Thus, Dr. Paley informs us, that “ *the end of punishment is two-fold, amendment and example ; in the first of these, the reformation of criminals, little,*” says he, “ *has ever been effected, and little, I fear, is practicable. From every species of punishment that has hitherto been devised, from imprisonment and exile, from pain and infamy, malefactors return more hardened in their crimes and more instructed.*” But, if punishment will not deter the offender him-

self, upon whom it is inflicted, from a repetition of his offence, how can the example of such punishment be expected to deter others from a similar crime?

There is indeed great reason to fear that this opinion of the utility of *example*, has been carried much too far. It is the prerogative of the Supreme Being alone to pierce through the veil of futurity, and to know that the object in view *will* be accomplished; and it is this alone that can authorize the infliction of immediate and positive pain for the purpose of obtaining some remote or contingent good. To put a person to death, *ostensibly* for an offence which deserves only a slighter punishment, but *in fact*, in the expectation of deterring others from the perpetration of similar crimes, is a degree of presumption very unsuitable to the weakness and imperfection of our nature; yet, we not only put persons to death for the sake of example, who would not have been executed for the crime itself, but openly avow this motive.* The inconsiderate and sanguinary

* Take for instance the story, so often repeated, and so much relied on, that when a man convicted at Hertford Assizes of horse-stealing, complained, *that it was cruel to hang him for only stealing a horse*, the judge told him, *that he was not to be hanged for only stealing a horse; but, that horses*

law-giver takes it for granted, that severe and horrible punishments *will* deter others from the commission of crimes ; but, has it never occurred to him, that by exhibiting frequent and revolting spectacles of inhumanity and bloodshed, he has counteracted his own object, and weakened in the public mind that natural reluctance to the shedding of human blood, which is one of the great safeguards of civil society ? In order to demonstrate to a people, that they ought not to be cruel, he sets an example of cruelty ; and, in order to deter them from putting each other to death, he puts them to death himself ; and *that* frequently by such acts of inhuman atrocity and savage barbarity, as the most ferocious criminal was never known to commit ; till the common decency no less than the common feelings of mankind revolt against the abuse ; and it becomes a matter

might not be stolen. Now, if the criminal was not hanged for stealing a horse, he was unjustly put to death. Whether the example might deter others from a similar offence was uncertain ; but, it was certain, that a human being was put to death for the *chance of preventing another from stealing a horse.* Yet, the sanguinary author of "*Thoughts on Executive Justice,*" wishes the judges to carry this answer with them whenever they go the circuit, and to bear it in their minds, as containing a wise reason for all the penal statutes which they are called upon to put in execution.

of doubt, whether the detestation of the punishment does not exceed the detestation of the crime.

Example can only be legitimately obtained through the medium of *justice*; but as there is no rule to determine what degree of punishment is necessary to be inflicted in order to deter others from crimes, legislators have in all ages been induced to carry punishments to *their greatest possible extent*, so as to *make examples still more horrible and striking*;* and thus, this idea, of the prevention of crimes by the severity of punishments, when carried to such a degree, has been a principal cause of the calamities of the human race, and has rendered the world a constant theatre of injustice and bloodshed.

But whilst severe punishments are ineffectually resorted to, for the purpose of securing society from injury, they serve to deteriorate and degrade the public character, and to weaken in the people at large those dispositions which ought to be cherished with the greatest care.—Nor is it the lower classes alone, whose moral feelings are corrupted and whose sensi-

* At the Lancaster spring assizes, 1818, no less than forty-four persons received sentence of death, four of whom were executed for forging or uttering bank of England notes. The judge afterwards observed to Sir James Mackintosh, that *unless some other means were devised, it would be necessary to make examples still more horrible and striking*:

bilities are destroyed, by the establishment of systems of severity and terror.—As the contest increases between obstinacy and crime on the one hand, and resentment and cruelty on the other, a similar effect is produced on every rank of society; all of whom become, by degrees, prepared to inflict, to suffer, or to witness, every extreme of violence. The result of the destructive maxim, *that mankind are to be kept in awe by terror alone*, then becomes apparent; and desolation and death stalk abroad through the city at noonday. Such were the times when Henry VIII. sat upon the throne of England, employed in devising the most plausible pretexts, and the most horrible modes of destroying his people; whilst the judges and peers of the land, became the ready instruments of his most cruel measures. The number of executions in his reign is stated to have been *seventy-two thousand persons*, being upwards of *two thousand in a year*, who perished by the axe, by the halter, in the dungeon, or in the flames. So true it is, that the general assent of a people to sanguinary laws, diffuses and maintains a sanguinary spirit throughout the country, which equally infects the rulers and the people, and becomes a more destructive, because a more permanent calamity, than famine, pestilence, or war.

But it is unnecessary to adduce arguments

to shew the inefficacy of excessive punishments, when the question can be decided by a reference to facts. Will it be contended that by the long continuance of this system of terror, this incessant exhibition of *examples*, any diminution, either in the frequency or heinousness of offences, can be perceived? Or is it not acknowledged on all hands, that notwithstanding the severity of the laws and the vigilance of those who administer them, crimes still continue rapidly to increase, so as to force from every considerate observer the confession, that *some measures of a very different nature are imperiously called for*.—On a subject of such vital importance to the very existence of society, it is surely not to be supposed that we are left wholly without a remedy, or that because we cannot depend on the *severity of punishments* for the repression of crime, we are to abandon all other efforts as hopeless.

ON THE PREVENTION OF CRIMES.

UNDOUBTEDLY the best preservative against the commission of crimes is a *correct sense of moral duty*, so strongly enforced by the precepts of Christianity. To suppose that all efforts to inculcate these precepts are fruitless, is to admit that their Author delivered them in vain. It is only when these feelings are deeply impressed on every individual of the community that society is safe. All other motives are influenced by time and circumstance. Their morality consists in locks and bolts. Weak restraints! of which, in a corrupt state of society, every day more clearly demonstrates the insufficiency.

All persons will agree that the inculcation of such sentiments on the minds of youth, would not only be the best, but the cheapest mode of preventing crimes. Yet, if we compare the efforts that have been made for this purpose, with the immense task that yet remains unaccomplished, we cannot flatter ourselves with

having made any extraordinary progress. We seem as yet to have had but an imperfect glance of the true principles upon which a virtuous education is founded; and to have allowed a scanty and partial cultivation of the intellect to supersede the more important cultivation of the heart. The farther this kind of instruction is carried, the more doubtful is its expediency, if the affections and feelings have not had an equal share of attention, as it places a weapon in the hands of youth, without directing them in the use of it. To suppose that talents and virtue are inseparably united, is to close our eyes against daily experience; yet we neglect to avail ourselves of those tender years in which the deepest impressions are made, to form the character for the benefit of society, and to cultivate those seeds of social affection which nature has implanted in every human bosom. By a just retribution for our folly, it costs us more to punish crimes than it would to prevent them. Independent of all that the community suffers in plunder and depredation, in frequent bloodshed and continual annoyance, it is harassed a second time in bringing the offenders to justice; and it may safely be asserted, that the amount it expends for this purpose, more than doubles that of the spoliation sustained. Perhaps a day may yet arrive, when it may be thought worth while to con-

sider whether the great and annually increasing amount expended in bringing criminals to justice, would not be better devoted to the inculcation on the minds and temper of youth, of such principles and dispositions, as might prevent the perpetration of those crimes which it is now employed to punish.

Another principle in human nature, capable of being employed to the greatest advantage, but which has been rudely crushed and trampled on by the coarse and heedless measures of some legislators, is *a sense of honour and of shame*; a principle which, if carefully improved, and generously confided in, would not only preserve society from degrading crimes, but raise it to a proper sense of its dignity; and which cannot be wholly extirpated without reducing mankind below the level of brutes. "*The people of Rome,*" says Montesquieu, "*had some share of probity. Such was the force of this, that the legislator had frequently no farther occasion than to point out the right road, to induce them to follow it. One would imagine that instead of precepts, it was sufficient to give them counsels. The punishments of the regal laws, and those of the twelve tables, were almost all abolished in the time of the republic, in consequence either of the Valerian or the Porcian Law. It was never observed that this step was prejudicial to the civil admi-*

nistration. *This Valerian law, which inhibited the magistrates from using any violent methods against a citizen that had appealed to the people, inflicted no other punishment on the person that infringed it, than that of being reputed a dishonest man.*"

If we would wish to see an epitome of what might, by proper measures, probably be accomplished in society at large, let us enter into one of those schools of infant instruction, where a humane and judicious policy has substituted for corporal punishments a feeling of disgrace. Let us observe a child, who has been insensible to admonition, ordered to rise and take his place on the seat of degradation. As the eyes of his companions are turned upon him, see his cheeks tinged with blushes—see the tears start in his eyes, till at length with sobs and wailings, he confesses the agony of his soul! Stripes and severity may produce similar expressions of anguish, but it is anguish of the body, not of the mind; yet it is from the latter alone, as well in the world as in the school, that any effectual benefit is obtained. "*In moderate governments,*" says the enlightened author last cited, "*the love of one's country, shame, and the fear of blame, are restraining motives capable of preventing a great multitude of crimes. Here the greatest punishment of a bad action is conviction.*"

But it is obvious to remark, that before we advert to any positive measures for the *prevention of crimes*, much less pretend to have any right to resort to *severer punishments*, it is requisite that we should remove as far as possible every inducement which in any manner leads to their commission; for if it should appear that the erroneous measures of the legislature itself, have led the way to the depravity and wretchedness of the people, with what propriety, or even justice, can we talk of resorting to severer measures, till these primary and inciting causes be effectually removed?

That the present moment is in the highest degree favourable for entering on such a task, must be apparent to every one who considers that we are just recovering from the effects of a long and most expensive war, or in other words, from a state of political existence which disturbs the order of society, aggravates our national burthens, and from its very nature, encourages the worst passions upon the greatest scale. From peculiar circumstances it has had the effect, in this country, of inciting us to its continuance by a factitious prosperity, which gratified our wishes as long as we floated on its surface, but no sooner were we left to ourselves, than we found how unsubstantial our supposed advantages were, and the *transition from a state of war to a state of peace* convinced

us that we could not interfere in the work of slaughter and destruction, without paying the penalty inseparably annexed to it. This we have accordingly been suffering in the effects of those habits of immorality and idleness which are induced by long continued warfare, and which being diffused through the people at large, contribute to fill our courts with criminals, and our journals with enormities unheard of in any other time or country. These dispositions have been instigated to their highest pitch by the poverty and distress resulting from the enormous increase of taxation, an evil, that like a disease in the human body, falls inevitably on the weakest part. Unfavourable, however, as these representations may seem, there are already strong indications of recovery. A degree of information hitherto unexampled is diffusing itself through every portion of the community; —the necessity of resorting on all occasions to sound principles, and consequently of investigating and defining those principles, is very generally acknowledged: the rights and interests of the different classes of the community are better understood, and an earnest desire is manifested of resisting the influx of depravity and wickedness, not by persevering in measures of severity, but by the introduction of higher and better principles of legislation, the deductions of reason and justice, and which

are calculated to heal and not to aggravate the wounds of humanity.

In taking a survey of the state of society around us, one of the most striking objects which attracts our attention, and which particularly excites the observation and surprize of every stranger, is the shocking habit of *intoxication*, which is exhibited, not only in the metropolis, but in most other parts of the kingdom, and which if not actually encouraged, is openly permitted to the most alarming and incredible extent. Let the reader who doubts this assertion examine the reports of the Committee of the House of Commons appointed to inquire into the police of the metropolis; he will there find such a representation of the dreadful effects of this vice, as cannot fail to call the public attention to a subject, in which not only the interests of morality and religion, but the personal and individual safety of every member of the community is in some degree involved.* It is principally to

* " On a Sunday morning, from April to Michaelmas, on Holborn hill, there is nothing but riot and confusion, from Hatton Garden to the Market, from four o'clock in the morning till eight; the gin-shops open so early that they get drunk, and rioting and fighting about. I should think that there must be two or three or four hundred—it is quite like a market—loose disorderly people of both sexes—I have seen as much as three or four fights on a Sunday morning. Thompson's gin-shop is what they call the best. I should

this source that the committee have traced up the increased depravity of the present times; and they have shewn, by the most authentic evidence, that most of the horrible crimes which have of late been committed, in and about the metropolis, have been occasioned by the "*brutalizing effect of spirituous liquors; by which the criminal is rendered insensible to the milder feelings of his nature, and regardless of all consequences, whether as affecting this world or another.*"* To

not wonder if there were a *thousand customers on a Sunday morning*, before the time of service—the place is full from four in the morning till eleven."—*Examination of Mr. John Barnley, Beadle of St. Andrew's Parish, Hatton Garden, &c.*

* See the evidence of Mr. Poynder, Clerk of Bridewell Hospital, and late undersheriff of London and Middlesex, who had a particular opportunity of knowing that this was the case with respect to the murder of Mr. Bonar, a transaction which astonished the nation, because it was impossible to discover in it any of the motives which usually give rise to such crimes, but which this witness sufficiently explains by stating that the murderer, when not under the influence of drams, was a civil and obliging man, but when he had been drinking, was fierce and violent. It was also in evidence with regard to the murderer of the two families at Ratcliffe Highway, that he had been drinking the strongest kind of gin, both before and after the murders; and in the case of Smith, who instigated his wife to set fire to his house in Newgate Street, and afterwards poisoned her, that she might not betray his secret, it appears that both these unhappy persons were long addicted to the drinking of spirits, and that he was himself sensibly under the influence of liquor during the whole time of his trial. In the Times of Oct.

the same cause a very respectable witness attributes the spirit of insubordination and sedition which has manifested itself in some districts, and the murders to which it has given rise. The general conclusion drawn by him from his evidence is, *"that it is his firm conviction, founded upon some experience, that so far as regards offences against the laws of the state, the continuance of the present system is favourable to public crime; that inducements of so strong a nature are afforded by authority for its commission, as the lower (and in some degree the middle) class of society, find it impossible to resist; and that no influence, arising from the counteraction of even the wisest and best system of human judicature, can possibly be found adequate to the protection of public morals, or perhaps eventually to the preservation of society itself, if some radical alteration do not take place."*

To a question from the committee, whether the witness could suggest any remedy to this practice, he gave it as his conviction, that so

18th, 1818, is an account of the murder of Mary Albert, an infant of four years and a quarter old, committed by Robert Dean, an act of atrocity which would be quite inexplicable, had we not been informed that *he appeared to be a steady and good tempered man when sober, but was extremely ferocious when intoxicated.*

long as spirituous liquors are to be had by the general population of the country, so long such evils must continue; and in this conclusion every considerate and impartial reader must agree.

Another principal cause of the unexampled frequency of crimes in the present day, is the open and unrestrained practice of *gaming*, which, originating in the higher classes, has infected the lower, till it has become the habitual occupation even of the children of the lowest ranks, in the streets of the metropolis; who throughout the whole week, "*and particularly on a Sunday, are seen in parties, sometimes fifty or sixty in a gang.*" That this is "*one source of the increase of the number of pickpockets and thieves*" is evident; and this evil, originating in the metropolis, is extended into the vicinity by means of the numerous fairs which are held within ten miles of the town. These fairs are "*the general resort of the idle and profligate, and there are to be found assembled most of the worst characters in the metropolis.*"* It is easy to conceive with what a pestilential influence the profligacy and vices that are here openly encouraged and practised must be diffused into other parts of the country. But with what propriety can we condemn these enormities,

* Vide Report of the Police Committee.

whilst the legislative authority of the country annually establishes an abuse, in the *State Lottery*, which not only sets an example of gaming, but of the most fraudulent imposition on the credulity of the people? In the examination of Sir N. Conant, chief magistrate of Bow Street, he expressly states, that "*the lottery establishment leads to theft, to supply the deficiency occasioned by the losses and disappointments in the lottery;*" and Mr. Beaumont, another magistrate, says, "*amongst the immediate causes of thefts and other offences against the public peace, lotteries hold an undoubted place. It is a scandal to the government, thus to excite people to practise the vice of gaming, for the purpose of drawing a revenue from their ruin. It is an anomalous proceeding by law to declare gambling infamous, to hunt out petty gamblers in their recesses, and cast them into prison, and by law also to set up the giant gambling of the state lottery, and to encourage persons to resort to it by the most captivating devices which ingenuity, uncontrolled by moral rectitude, can invent.*"

"*There are two sorts of corruption,*" says Montesquieu, "*the one when the people do not observe the laws, the other when they are corrupted by the laws; an incurable evil, because it is the very remedy itself.*" Whilst the revenues of government are thus derived from the crimes

of the people, it is in vain to hope that any efforts, either to reform their morals or restrain their enormities, can be attended with success. If any improvement is to take place, it can only arise from a severer attention to the repression of licentiousness, and an entire change in these branches of the financial measures of the country.

Another most unfavourable symptom in the present times is the scandalous extent of female profligacy. It has indeed been truly remarked, that this sex, which, whilst it preserves its honour and its dignity, is the faithful support and best friend of order, decency, and virtue, becomes, when depraved, the greatest promoter and incentive to every description of vice. This alarming change is attributed by Dr. Colquhoun to "*a deficient law to aid the police, and to a variety of other causes—the profligacy of parents; the total want of education; the want of means of putting them into reputable service at the time they arrive at a certain age; the death of parents, leaving them destitute orphans, growing up, who have no resource but to go upon the town; to a love of dress, and the seduction of innocence;*"—by which last fatal calamity that sex too often become, in their turn, the wretched instruments of the guilt and ruin of many of those unfortunate malefactors who daily fall a sacrifice to the severity of the law.

Nor is it possible to pass over in this inquiry, the dreadful state of our infant population, and the alarming increase of *juvenile delinquency*. To no cause whatever can this be attributed with so much certainty, as to the depraved and hardened disposition of the parents, the result of that habit of intoxication which induces them either to abandon their offspring altogether, or, in order to supply the cravings of their depraved appetites, to incite them to, and instruct them in, every species of theft and depredation. The extent to which this has been carried, not only in the metropolis, but in some of the principal towns in the kingdom, would be as incredible as it is disgraceful, were it not from its almost daily exposure in our judicial proceedings—a circumstance which has led many persons, and particularly those engaged in the administration of justice, to suppose that there is no remedy but in severity, or in *executing some in order to deter others*. But if any circumstance could shew the impropriety and inutility of examples of severity, it is, when we propose to apply them to children, who, instead of incurring our *vengeance*, are entitled to our extremest pity, and our most effectual aid. Is it to be supposed, that the thousands of infant criminals, few of whom have received even the first rudiments of education, can avail themselves, in the slightest

degree, of the sanguinary examples thus proposed to be held out to them? Are they conversant with our records of public justice? or if they hear of such a circumstance, is it not the practice of those around them to destroy the effect of it on their minds, and persuade them, that by their superior dexterity or good fortune, they will avoid a similar fate? By the law of England, a person under twenty-one years of age is presumed not to be competent to the exercise of his civil or political rights, or to the management of his own concerns. Like an idiot, he cannot devise his estate. If he contracts a debt, the creditor cannot recover it. He is, in short, considered as in a state of mental imbecility. Yet helpless, abandoned, uneducated, incompetent to every important act, he is answerable *with his life* for the first error he commits; and the annals of our judicature are darkened with the horrid frequency of the execution, or severe punishment, of those who have in fact a much better founded cause of complaint against the country which has doomed them to suffer, than that country has against them.*

* From the Report of the Committee of the House of Commons on the Police of the Metropolis, it appears, that many thousands of boys are daily engaged in the commission of crime. That in one prison only (Clerkenwell) where

Such are some of the considerations to which we must attend, if we wish to contribute to lay the foundation of order, decency, and morality amongst the lower ranks of the community.* When these causes are effectually removed, the career of improvement will not only be found easy, but rapid. The disgrace,

young and old are all mixed indiscriminately together, 399 boys under twenty, were confined for felonies in the last year; of whom one was of *nine*, two were of *ten*, seven of *eleven*, fourteen of *twelve*, and thirty-two of *thirteen* years of age! "The condition of these poor children," says the Report, "is of all others the most deplorable. Numbers are brought up to thieve as a trade, are driven into the streets every morning, and dare not return home without plunder; others are orphans, or completely abandoned by their parents, who subsist by begging and pilfering, and at nights sleep under the sheds in the streets, and in the market places; when in prison, no one visits them, nor do they seem to possess one friend in the world. They are occasionally treated with severity;" "sometimes severely flogged, and then, without a shilling in their pockets, turned loose upon the world more hardened in their character than ever." *Rep.* p. 501. *And see the very important evidence of the Hon. H. G. Bennet, given to the Committee of which he was chairman.*

* "Till all the ways are exhausted by which the morals and manners of a people can be reformed, the existence of an augmented state of crime, the severity of penal law, and the frequency of capital punishment, are evidences little creditable to the system of which such evils are the result." *Report of Police Committee*, p. 502.

inconvenience, and expense that attend the present state of our judicial administration, have been most severely felt in every district of the country; and a very general and earnest desire to remedy these evils by the adoption of wise, temperate, and beneficent measures, is prevailing more and more throughout the kingdom. In the encouragement of this sentiment, the government itself cannot but be desirous to concur. In exalting the character, and promoting the prosperity of the country, every administration must find its best and only permanent reward; and as long as measures are adopted which tend to convince the nation that these objects are faithfully pursued, the narrow prejudices of party distinctions will be lost in the increasing prosperity of the country; whilst any proceedings unfavourable to the career of this moral improvement, cannot but be viewed with jealousy and dissatisfaction, as a remnant of that absurd and exploded doctrine, that *the security of government is founded on the ignorance and debasement of the people.*

To enumerate the various measures that might be adopted for reforming the morals and improving the condition of the country, would here be superfluous. They will be found in the volumes before referred to, and in other valuable reports and proceedings of the Com-

mittees of the late Parliament, as well as in the publications of other enlightened bodies of individuals, who either voluntarily, or by authority, have associated together for the purpose of obtaining information on these subjects; and who, to the selection of the most important facts, have frequently added their own judicious opinions and useful recommendations. Amongst the modes suggested or approved by them, is *the extension of moral and religious education to indigent youth; the establishment of Houses of Industry and Penitentiaries for the reformation of criminals; and of places of refuge for destitute females: the protection of infant labourers and manufacturers against the avarice of their employers, and of apprentices against the neglect of their masters. The improvement of prison discipline; the distribution of the sacred writings and books of instruction, such as tend to diffuse sentiments of morality, religion, and mutual good will amongst the poor; with various other improvements, which may sufficiently shew that the cause of order, decency, and morality; the cause of true religion and of mankind is not hopeless; and that the reformation of the world does not wholly depend on the equivocal aid afforded by the example of sanguinary punishments.*

ON THE PUNISHMENT OF DEATH.

IF it be true, as before stated, that the proper object of human punishment is the reformation of the offender, it will follow as a necessary consequence that it is not allowable under any combination of circumstances to put a fellow creature to death.

In order to prevent the perpetration of sanguinary crimes it seems in the first place necessary, that the legislature should shew its abhorrence of the shedding of blood, and should inculcate, in the strongest manner, a sacred regard for human life.

A sentiment of this nature, impressed upon the feelings of a people, would be more efficacious in preventing the crime of murder, than the severest punishments.

Cicero calls his country "*Parens communis*,"—what should we think of a parent who corrects his child by putting him to death?

"The case of a civil ruler and his subject," says a sensible and energetic writer, "is much like that of a father and his minor son. If the

son behave himself unseemly, the father may correct him. If after all due admonitions, and corrections, the son should prove to be incorrigible, the father may expel him from his family, and he may disinherit him; but he may not *kill* him. All civil as well as parental punishments ought to be mild, humane, and corrective; not vindictive, inhuman, and extirpating. They ought to be merciful, not rigorous; proportionate to the crime, not excessive; and tend to the reformation of the delinquent, but not to his destruction; and should be inflicted with reluctance, love, and affection; not with passion, hard-heartedness, and asperity. The highest encomium that can be bestowed on good rulers is when we style them, *the fathers of their subjects, and the protectors of their rights.*"*

It is remarkable that those persons on whom the example of capital punishments is chiefly intended to operate, are usually such as have manifested the most striking disregard to their own lives; consequently, those upon whom the idea of the punishment of death is likely to make the least impression. A person who voluntarily places himself before the aim of a pistol, cannot

* *Essays on Capital Punishments.* Philadel. 1811. *Republished by Basil Montagu, Esq. in his Collection of Opinions on the Punishment of Death.* Vol. iii. p. 159.

be supposed to be deterred from that act, by any apprehension of his life from remoter consequences.

It has, therefore, been proposed to place the murderer in such a situation as should effectually prevent a repetition of his crime; where, instead of escaping from ignominy and remorse by immediate death, he may exhibit, by a long course of humiliation and repentance, the fatal consequences of his guilt.

The effects produced by such an example might be advantageous, without being counteracted by other considerations. Whether the spectators who attend an execution, may be deterred from similar crimes by witnessing such a catastrophe; or whether they may become in some degree hardened against the feelings of humanity, by the frequent recurrence of such spectacles, may at least be doubtful; but a murderer, under restraint and correction for his crime, is an object, the sight of which, combining at once the enormity of the offence with the dignified forbearance of the law, must always be favourable to the best interests of the community.

Hence there is reason to presume that punishments of this nature would tend more effectually to the prevention of crimes, than the dread of immediate death; in which scene the criminal is the chief actor, and not unfrequently appears

with considerable eclat. In fact, offences that subject the perpetrators to death are committed no where more frequently than at executions; and the horrible spectacle of the exposed body of a murderer seems to be only the prelude to similar crimes.

But if legislators and writers of great eminence have entertained considerable doubts both as to the right and the expediency of capital punishment, even for the most heinous offences, how is it possible to justify the application of it to such crimes as *affect property only*, and that frequently to a very trivial amount? "Among the variety of actions that men are daily liable to commit, no less than *two hundred* have been declared by act of parliament to be felonies without benefit of clergy, or in other words, to be worthy of instant death. When we inquire into the nature of the crimes of which this dreadful catalogue is composed, we shall find it to contain transgressions which scarcely deserve corporal punishment; we shall find it to omit atrocious enormities; and so to blend all distinctions of guilt, as to inflict the same punishment upon the offender who steals to the amount of a few shillings in a shop, as upon the malefactor who murders his father."*

* Speech of Sir John Anstruther in the House of Commons, 1811.

Nor is it only for the actual privation of property that the punishment of death is provided ; even many offences which seem to be merely legal trespasses, are included by the legislature in the black catalogue of capital crimes. Such offences are undoubtedly the proper objects of a correctional police, but surely no humane or considerate person can for a moment admit that they ought, in a well regulated community, to be punished with *death*. " It must be owned," says Blackstone, " that it is much easier to extirpate, than to amend mankind ; yet that man must be esteemed both a weak and a cruel surgeon, who cuts off every limb, which through indolence or ignorance, he will not attempt to cure."

" It cannot be too strongly inculcated," says a noble and excellent writer on this subject, " that capital punishments when unnecessary, are inhuman and immoral. Sensibility sleeps in the lap of luxury, and the legislator is contented to secure his own selfish enjoyments by subjecting his fellow citizens to the miseries of a dungeon, and the horrors of an ignominious death."* So true it is, that the most cruel and unjustifiable laws are those which are intended to effect their purpose by a sudden and decisive process ; as if the promulgator had thereby freed

* *Eden's Penal Law*, pp. 287, 291.

himself from all further danger and trouble on the subject. "This summary way of proceeding by capital punishments," says a distinguished writer of the present day, "though it may assume the appearance of vigilance and zeal in the public service, is, in reality, too well adapted to the indolence or the pride of men, in making laws which they are themselves under little temptation to violate. It presents itself readily to the coarsest understanding, and you fly to it with little reflection, though upon a collective view of all the circumstances which ought to regulate the measure, it will be found to require the greatest."*

Had it not been from the influence of examples handed down to the present times from ages of the darkest ignorance, it would scarcely be possible to conceive how we could tolerate laws that involve such a great variety of offences, so different in their nature, in one common punishment; not only with the most flagrant injustice, but with the greatest danger to every member of the community, whose life is thus placed in a constant competition with objects of the most trivial and worthless description, and is liable to be sacrificed to the security of offenders, against the consequences of very in-

* *Characters of C. J. Fox, by Philopatris Varvicensis.* Vol. ii. p. 468.

ferior, and comparatively unimportant, crimes. *To commit a murder, or to free a person from an arrest; to burn a dwelling house and its inhabitants, or to burn a haystack; to commit a parricide, or to obstruct an officer of the revenue in the seizure of prohibited goods; to break into a dwelling house at midnight, or to cut down, or otherwise destroy a tree in a garden; to poison a family, or to maim or wound a cow*—Is it possible to conceive, that if an enlightened and humane legislature had undertaken to form a code of laws for a civilized country, they could have adopted such measures as these, which are not less dangerous to themselves, than intrinsically extravagant and unjust; and which might render it indispensable to the life of the poor wretch, who is cutting a stake in a plantation, to murder the owner, who may unwillingly have it in his power to give that evidence which may take the forfeited life of the offender?

Such in fact is the present state of the criminal law in this country, that it seems to be universally admitted, that *if it were to be carried into strict execution*, it would form the bloodiest system of legislation, by which any nation, ancient or modern, ever punished itself. Instead therefore of attempting to vindicate our present institutions of criminal law upon any principle of reason and justice, it is usual for those who

wish for their continuance; to contend that they are not intended to be carried into effect, but are only meant to furnish the judicial authorities with sufficient power to include every description of crime, and, at the same time to allow such an exercise of discretion, as may give to a severe law a mild and temperate execution. To such an extreme has this idea been carried, that a very popular modern writer* has erected upon it a system of legislation, which he denominates the "*Law of England*," which, as he informs us, "*by the number of statutes creating capital offences, sweeps into the net every crime, which under any possible circumstances, may merit the punishment of death; but when the execution of this sentence comes to be deliberated upon, a small proportion of each class are singled out, the general character, or the particular aggravations of whose crimes, render them fit examples of public justice; and by this expedient, few actually suffer death, whilst the dread and danger of it hang over the crimes of many.*" This attempt to represent as a preconceived and regulated system of legislation, a state of our judicial concerns, which has arisen from the mere impossibility of carrying such sanguinary measures into effect, is not less re-

* Dr. Paley.

pugnant to the truth, than it is foreign to the ideas of our ancestors; who, however they might err on the side of severity, were certainly sincere in their hostility against crimes, and intended their enactments should be carried into effect. The fallacy of this statement has been fully shewn by Sir Samuel Romilly,* by whose enlightened efforts and indefatigable exertions, some of the most cruel and obnoxious of these statutes have been repealed.† It is not however by the success that has attended his labours, that we must estimate what is due from the community to this real patriot and distinguished senator. The reforms effected by him, bear indeed a small proportion to the enormous mass of sanguinary enactments which disgrace our statute book; but the maxims of legislation which he has laid down, and the sound principles for which he has contended, apply to the whole system; and will, it may confidently be

* In his tract entitled "*Observations on the Criminal Law of England,*" as well as in his speeches in parliament.

† In particular, the 8th Eliz. c. 4. by which larceny from the person above the value of 12*d.* was made felony without benefit of clergy, and the English and Irish statutes which punished the stealing from bleaching grounds with death. In the session of 1812, an act was also passed to repeal the statute of Eliz. which made it a capital offence for soldiers or mariners to wander or beg without a pass.

hoped, eventually produce such alterations as may remove from our judicial code, the imputation of cruelty on the one hand, and prevent the impunity of the criminal on the other.*

In fact it is in this ill-judged lenity, or rather inefficacy of the law, that we discover one great cause of the extraordinary profligacy and depravity of the present day. Offenders of every description, hardened and instructed in wickedness, are acquitted by our courts and liberated from our gaols, to renew their depredations on the community. Such is the inevitable consequence of enacting a punishment wholly inapplicable to the crime, that the public suffers whilst the criminal escapes. He has indeed been meshed in the great net of the law,

* May this expectation be accomplished! for, since the above was written, the world has been deprived of the illustrious individual to whom it relates, and can now only avail itself of the lessons which he has left for its improvement! May we not, however, venture to hope, from the sincere sympathy and universal grief which this event has occasioned, that the cause he so warmly espoused, and the sentiments he so forcibly expressed, are deeply felt by the nation at large? And that his loss will, as far as possible, be repaired by an increased determination on their part to promote the great and beneficent objects which he so faithfully pursued? Such a result of his labours may delight his spirit, and add to his happiness in the regions of the blest.

but this net retains scarcely one in a thousand,* and he has escaped so often, that he has little fear of encountering another trial. Such is the acknowledged barbarity of our laws, and such the more enlightened and humanized state of the public feeling, that they are no longer compatible with each other. Accordingly we perceive on every hand indications that a further perseverance in our present track will not long be possible. Whilst our institutions continue in their present form, persons injured frequently will not prosecute—witnesses will not attend—juries will not convict, and judges cannot condemn.† In the mean time, guilt and rapacity raise their heads with renewed insolence, and

* It was stated in the House of Commons, in the debate on the shop-lifting and canal bills (Feb. 1810) that out of 1872 persons who had, in the course of seven years, been committed to Newgate, for stealing in dwelling houses, only one was executed.

† “At Carnarvon Sessions (1818) J. Jones, a drover, was tried for uttering forged bank-notes, and, notwithstanding thirty-one witnesses established the charge, and Mr. Glover, inspector to the Bank of England, traced thirty-nine notes to have been paid by the prisoner, the jury returned a verdict of *not guilty*. Next day, the same prisoner was indicted for having forged notes in his possession, and the jury again returned a verdict of *not guilty*.”—The records of our Courts of Justice abound with similar instances.

brave the ministers of law on the seat of justice. Such a state of things cannot, it is evident, admit of delay. It has been proposed by many excellent men, that attempts should be made to apportion punishments to offences, so that every crime should have its appropriate penalty; but, to say nothing of the acknowledged and numerous difficulties which must attend the completion of such a task, if the public are to wait till the endless diversity of opinion to which this subject would give rise be reconciled, all prospect of redress would be hopeless. Let it not however be imagined, that the public depredator, the hardened criminal, is to be suffered to persist in his guilt. Let his hopes of impunity be dispelled, and his fears be awakened by buildings rising in every county and every city of the kingdom, calculated to repress his enormities, to subdue his obstinacy, to form him to new habits and better dispositions, to render him sensible of his misconduct, and enable him to provide for himself by honest industry:—let the Courts of Justice, instead of dismissing offenders, to commence a new career of crimes, deliver them over to these no less effective than truly benevolent institutions; where, as has already been shewn by ample experience, there is every reason to expect that a great majority may be redeemed from their guilt, and restored to society; or, if this should not be found in

all cases practicable, the community at large will derive, from the very efforts that may be made for this purpose, the inestimable benefit of being freed from the depredations of the innumerable hordes, who are at present its annoyance and its dread, and the sacred delight arising from the performance of the first of christian duties.

ON PUNISHMENTS OF INFERIOR DEGREE.

BUT, if the laws of this country neither profess to have in view, nor are calculated to produce, the moral improvement and restoration of the guilty, they have provided various modes of punishment, between the infliction of death and total impunity, by which the offender is made to feel, severely and permanently, the consequences of his crime. What use he may make of the discipline he thus receives, must rest with himself. In the conviction of the criminal, and the application of the punishment, the law has performed its office. Let us now inquire what is the nature of these punishments, and what is their usual result.

The inferior punishments usually inflicted on criminals in this country, are *transportation, corporal or disgraceful punishments, and imprisonment.*

Banishment, says Cicero, *is not a punishment, but a refuge and a shelter from punishment.** The lenity of the Roman law per-

“Exilium non supplicium est, sed perfugium portusque supplicii.”—*Cic. pro Cacin.*

mitted the person accused, in every case before judgment, to withdraw himself from the consequences of conviction into voluntary exile. A practice nearly similar, under the name of *abjuration of the realm*, subsisted in England till the time of James I., of which Mr. Eden has given some curious particulars;* but *banishment*, as known to the ancients, and still practised by some modern states, forms no part of the law of England. Instead of this, we adopt the practice of *transportation*, and send the individual to some particular place, where he is to pass the period of his condemnation.

There was a time when it was supposed to be of great importance to the prosperity of this country that we should colonize foreign parts, and in particular that we should people the Coasts of America; and, though the result of this experiment has been very different from what was expected, yet the habit being once formed, we still continue to colonize, although at tenfold expense, and without being able to

* "This was permitted," says Sir E. Coke, "when the felon chose rather, *perdere patriam quam vitam*." The oath of perpetual banishment was then administered to him by the coroner, in the church or church-yard to which he had fled; and a cross was delivered into his hand for his protection on his journey."—*v. Eden's Prin. of Penal Law*, c. iv.

form the least conjecture as to the ultimate consequences of such a proceeding.

It must however be allowed, that in cases where all other attempts to reform a criminal have failed, transportation is the most humane, and, at the same time, the most effectual mode of punishment. By this measure the country is, in general, as much secured against a repetition of the crime, as if the criminal were put to death; whilst it is not improbable, that in a different land, and under different circumstances, he may adopt a more correct line of conduct, and even become an useful member of the community. In the complicated and extended relations of our political and commercial concerns, opportunities, and perhaps temptations to criminality arise, which could not exist in the simple transactions of a laborious population, and in an early state of society. The power of habit is well known; and, if it be so remarkable in the common concerns of life, it is to be feared that it is not less operative with respect to those propensities to crime which have been occasioned by many concurring causes, of the force of which those whose road has lain through the smoother tracks of life, can perhaps form no idea. By transportation to a foreign country, a sudden and total alteration in the circumstances, and

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consequently in the views and feelings of the individual takes place; and that activity or ingenuity which was so dangerously employed at home, may in a foreign country, enable him to become one of the most ingenious artists or successful traders of the place.*

It may not however, follow that because the punishment of transportation should remain, this country should continue the unwieldy and expensive operation of sending our convicts to the *antipodes*. There are other establishments on the Coast of Africa, the Cape of Good hope, Canada, and other places, where criminals might be sent with much less expense. Should it be objected, that they would more readily find means of returning from those places to their native country, a transportation to New South Wales might be reserved as a proper punishment for such offence. Nor would it seem an unadvisable measure, under the present circumstances of the country, to

* An instance of this occurs in the case of a person, who being convicted of a capital offence was pardoned, on condition of being transported to New South Wales; where by his regularity and industry, he has established himself in a beneficial business; and lately transmitted to the author of this tract, a sum of *one hundred and twenty pounds*; which was divided by his directions amongst his children, who remained in this country.

revive the ancient practice of *abjuration of the realm*, or to permit any person accused of certain offences, *without violence*, to withdraw himself into *perpetual exile*; by which the country would gain the same advantage as is now obtained by conviction, without the enormous expense and trouble by which alone that conviction can be obtained.

It has frequently been observed, with some degree of exultation, that *torture* is not permitted in this country. If by torture be meant the subjecting a person to the rack, for the purpose of compelling him to give evidence, or to confess an imputed crime, this country is certainly not chargeable with so diabolical a practice. But, if the lacerating and scourging the person of an individual, as a punishment for his offences, be *torture*, it is a proceeding not only well known to our laws, but of frequent occurrence. There are in fact, few mutilations or sufferings to which the human frame can be subjected, that have not, in this country, at one time or another, been resorted to, as a punishment for offenders;* nor does there appear to

* By a statute of Hen. VIII., a person, who struck another in the place where the king resided, was liable to have his right hand cut off; and by another of Eliz. the exportation of a sheep incurred a forfeiture of the left. Pope seems to

be any obstruction, other than such as arises from the more improved and humanized spirit of the times, to similar punishments being again inflicted; but independent of these barbarities, the use of the whip is general throughout the prisons of the kingdom, where prisoners “for *small offences*, are *whipped and discharged*.”* On the effects of these proceedings, a few observations will be requisite.

The great object of punishment, as has before been observed, is the reformation of the offender. Whether this is likely to be effected, merely by *whipping and discharging*, it is surely not difficult to judge. Of whatever extremes of good or bad, the human character may be susceptible, it can only be considered as a compound of both;† nor is there an individual, in a

have had great pleasure in recording some of these barbarities, when inflicted on his political opponents.

“*Earless* on high stood unabash’d DEFOE,
And TUTCHIN, flagrant from the scourge below.

* Dr. Forde, ordinary of Newgate; who emphatically adds, “*of course no reformation can be expected from them*.”
—*Letter to the Rev. T. Brewster*.

† It is related, that Tai Tsong, Emperor of China, upon a scarcity of hands to collect the harvest, went to the public prisons, and released 390 criminals, on condition, that when they had finished their labours, they should return to their captivity, which every individual faithfully performed. At

civilized state of society, so depraved, as not to feel the desire of bettering his condition, or, in other words, *that* principle of emulation which is the basis of moral improvement. What then shall we say of a proceeding, which, if it cannot destroy, deadens as much as possible, the hope of this improvement? that converts a single error into an irreparable calamity? and endeavours to plunge the being that has once turned aside, into an abyss of endless misery?*

the time of the yellow fever at Philadelphia, in 1793, great difficulty was found in obtaining nurses for the sick at Bush-hill hospital. Recourse was had to the prison; as many of the female convicts offered as were wanted; they continued faithful till the dreadful scene was closed; none of them making a demand for their services till all were discharged. In another instance, when request was made to them to give up their bedsteads for the use of the sick at the hospital, they cheerfully offered even their bedding, &c. When a similar request was made to the debtors, they all refused. Wretched as is the state of the convicts in many of our gaols, it would be infinitely worse, were it not for the support and assistance afforded by some of the prisoners, from their own scanty supplies, to those who are in still greater want, the instances of which are innumerable. So true it is, that

Virtuous and vicious every man must be,
Few in th' extreme, but all in the degree:
The rogue and fool by fits is fair and wise,
And even the best by fits what they despise.

Pope's Essay.

* "We invariably find," says the Ordinary of Newgate,

Nor is it merely the principle of emulation that is thus weakened or destroyed. The very sympathy of human nature is extinguished. Under the humiliating conviction of his own guilt, even the criminal still believes in the generosity of his kind. He asks for compassion, and he is answered by the scourge. A revulsion takes place in his feelings. His sky is darkened. His prospects are blighted. He curses his species, because their hearts are harder than his own. His whole soul is turned to injure, to circumvent, to betray. Wherever his road lies, he bears with him the mark, or the remembrance, of his infamy. His hand is against every man, and every man's hand is against him.*

"that they who have once transgressed, and have had a temporary punishment inflicted on them, are certain of being speedily reconducted to Newgate; from the necessity of being compelled, as it were, to plunder, to ward off the invincible calls of nature."—*Letter to the Rev. T. Brewster.*

* The injurious effects of corporal and disgraceful punishments are recognised by 5 Ann. c. 6, repealing the 11 and 12 W. 3, which directs, that persons convicted of theft shall be burnt in the most visible part of the left cheek. "*And whereas, it hath been found by experience, that the said punishment hath not had the desired effect, by deterring such offenders from the committing such crimes and offences; but on the contrary, such offenders being rendered thereby unfit to be intrusted in any honest and lawful way, become the more desperate.*—Be

By what degrees the author of a petty theft is brought forward and matured, and how many of these whippings must be administered to him, before he is hardened to robbery and murder, must be left to conjecture only.* But if the individual be ruined by being whipped and discharged, what has the public gained by it.† Are there not in town and country many

it therefore enacted, that the aforesaid clause shall be, and is hereby repealed."

* That this, however, is the common result, may be inferred from the lines of the poet :

" Where petty thieves *not yet* condemned to swing,
Beat hemp for others riper for the string."—

† Townsend, the Bow Street officer, in his evidence before the committee of the House of Commons, relates in his own characteristic manner, an anecdote of the celebrated George Barrington, who on being tried before the late Lord Chief Baron Eyre, and acquitted, was addressed by his lordship in an admonitory speech, to which Barrington replied: "*My lord, I have paid great attention to what your lordship has been stating to me, after my acquittal. I return my sincere thanks to the jury for their goodness; but your lordship says you regret very much that a man of my abilities should not turn my abilities to a better use. Now, my lord, I have only this reply to make. I am ready to go into any service, to work for my labour, if your lordship will but find me a master. Why, what was the reply to that? Gaoler, take the prisoner away. Why, who would employ him? that was the point. It is really farcical sometimes, when I have heard magistrates say, Young man, really I am very sorry for you, you are much to*

thousands of these wretches, of both sexes, and of all ages, daily employed in depredation and plunder, to the great loss, annoyance, and terror of the industrious part of the community; who are not only stripped of their property, but frequently compelled to become prosecutors at their own expense, and to attend distant courts of justice, without the prospect of any compensation?—If instead of being *whipped and discharged*, these culprits had been detained in custody, and set to labour till they had acquired a habit of industry, and had been compelled to repay to those they had robbed the amount of their losses; if, instead of disseminating through the land every species of wickedness, they had themselves received the instructions of compassionate and patient friends, and been restored to society under circumstances of credit and decency, can there be a doubt that the public would have been benefited by such a change? Let us attend

be pitied, you should turn your talents to a better account, and you should really leave off this bad course of life. Yes, that is better said than done; for where is there any body to take these wretches. I will take upon myself to say, that I have known this to be a clear case, which they have said to me, Sir, we do not thieve from disposition, but we thieve because we cannot get employment; our character is damned, and nobody will have us; and so it is. There is no question about it."—*Minutes of Evidence*, p. 264.

for a moment to the plea of reason and justice on behalf of the unhappy wretch, who is condemned to death for a repetition of his offence. "*I had no means, nor incitements,*" he might say, "*to gain a little reputation, because a stamp of ignominy had been indelibly fixed upon me, before I was thrown back upon an injured and incensed world. I fled from solitude and reflection, because the past afforded me no satisfaction, the present sustained my sinking spirits by no consolation, and the future cheered me with no hope. I associated with wicked companions, because good men shunned me. I wandered, because I had no home. I loitered, because no man would employ me. I stole, because the importunate and irresistible cravings of nature would not permit me to starve. A suspected vagrant in every lonely village, a detested outcast in every crowded city, cold and naked, hungry and thirsty, I no longer can desire to live, nor fear to die.* These excuses, so generally disbelieved and rejected by man, may be true, and if true, they are important, and if important, they may plead, trumpet tongued, against the revilers of the unfortunate, when they meet together before the tribunal of heaven."*

Of all the terms of odium and reproach

* *Characters of C. J. Fox, by Philopatriis Varvicensis, notes, p. 397.*

which nations so liberally bestow on each other, there are none more deserved than those which are founded on the infliction of imprisonment. Of the cruelties exercised by the Dutch in the East, of the French Bastille, and the Spanish Inquisition, we speak with horror; but when we peruse the faithful narrations that have been given of the dungeons of our own country, we shall find little cause for exultation. Instead of boasting of the name of *Howard*, we ought rather to blush at its recollection, when we reflect that it is upwards of forty years since the publication of his work, and that so little improvement has yet been made; whilst in many places, our prisons became rather worse than better; as may appear by a comparison of the work of *Mr. Howard*, with that of his indefatigable successor, *Mr. Neild*—so ineffectual have been their labours, to excite the attention of their countrymen to the correction of the evils which they have so feelingly and so truly set forth.

The public attention has, however, of late been powerfully called to this subject in the work of *Mr. Buxton* on Prison Discipline, a work which, by describing the abuses that yet exist in some of our places of confinement, and contrasting them with the improvements that have taken place in others, has demonstrated the practicability of a general and improved

system of management. Of the injustice and inexpediency of imprisonment, as at present inflicted in this country, the most clear and satisfactory proof may be found in the introductory chapter to his work, in which he has shewn, from the highest authorities, that the law extends its protection to prisoners, no less than to other subjects; and that their rights are grossly violated by the treatment at present inflicted upon them. To this excellent tract I earnestly recommend the reader's attention, and shall only observe, that in the plain estimation of common sense, there can scarcely be a more absurd or injurious proceeding, than to confine a person within the limits of a gaol, to brood over his own distracting thoughts, not only without any useful employment, but too often in the midst of riot, disorder, and wickedness. In this proceeding there is not a pretext of any advantage to the prosecutor by compensation, or to the prisoner by his amendment; the only motive that can be discovered, is the gratification of a barbarous and disgraceful spirit of *revenge*; which, as society continues to improve, and better principles are established, cannot fail to meet with the odium it deserves.

Frequently combined with imprisonment is another species of punishment, which has of late been carried to such an extreme, as loudly

to call for regulation or restriction. This is the practice of *loading prisoners with irons*, under the pretext of safe custody; but often, it is to be feared, to gratify the indolence, or the malice, or to promote some undue advantage of the gaoler. This practice is the more indefensible, as the maxim of the English law declares “*that no prisoner shall be put in chains, unless he be unruly, or attempt to escape;*” but as the keeper is the sole judge as to the construction he may please to put upon his conduct, the prisoner is left at his mercy, and is frequently obliged to purchase his exemption from being “*bolted by his neck or his leg to the floor of a prison, at the expense of his last shilling.*”

“*Raise your walls,*” exclaims one of these spirited advocates for the oppressed, “*Strengthen your gates, make your gaol a place of security, and no longer oppress your prisoners with unlawful chains for the worst purposes of corruption, under the miserable subterfuge of a pretended county economy.*”*

* *Neild on Prisons*, Preliminary Dissert. p. 64.

ON PROPOSED IMPROVEMENTS IN CRIMINAL
LAW.

IN the course of the last century, a very general sensation was created throughout Europe against the severity and injustice of its criminal law. In exciting this feeling, Montesquieu and Voltaire led the way with distinguished ability and success; but it was in a small state and under a despotic government, that this subject was opened to its full extent, in the celebrated work of the Marquis Beccaria. By these writings not only a great change of opinion, but great improvements in criminal legislation, were effected in many countries of Europe. The use of torture, notwithstanding it found for a time, like all existing abuses, its supporters and its advocates,* was generally abolished.† The justice, or expediency, of capital

* In the Abbe *Tourelle*, and in Spain, in an ecclesiastic named *Castro*, whose book, however, only excited that indignation which it so well merited.

† "The king of *Prussia* set the example of abolishing it in

punishments, even for crimes of the first degree, was questioned; and in some very important instances the practice was relinquished, with manifest advantage to the interests of the community.* The application of the punishment of death to minor offences was combated with still greater success, and a willingness was evinced by almost every nation in Europe, to avail itself of the information that had thus been

Germany, and the duke of *Tuscany* in Italy; and the example was soon followed in Saxony and Poland. In *Geneva* it has not been used since the year 1756, and it was totally abolished in *Sweden* in 1773. Maria Theresa tacitly suppressed, and the late Emperor Joseph formally prohibited it in the *Austrian* dominions. Louis XVI. about the same time restricted its exercise in *France*. The revolution has utterly abolished it in that country, as well as in *Avignon*, where it was formerly exercised with so much severity, that the goaler there informed Mr. Howard in 1786, that "he had seen drops of blood mixed with the sweat on the breasts of some who had suffered the torture."—*v. Bradford's Enquiry on the Punishment of Death. Note i.*

* Particularly by the Grand Duke of Tuscany, who in 1786, abolished the *punishment of death* throughout his dominions. "He had read and admired the Marquis of Beccaria, and determined to try the effects of his plan. He put a stop to all capital punishments, even for the greatest crimes, and the consequences have convinced the world of its wholesomeness."—*Gen. Lee's Mem. p. 53.* The introduction to the Edict is in fact an abridgment of the principles of Beccaria.

given, and to modify its institutions upon more humane and enlightened principles.*

The most prominent fact, and which could not fail to strike the attention of every writer on this subject, was, that in the application of capital punishments to a great variety of offences, different in their nature and degree, it was impossible for the administrators of justice to apply the threatened punishments with the indiscriminating rigour required by law; and consequently, that a considerable number, and perhaps a great majority of offenders escaped without either punishment or correction. In order to remedy a defect so dangerous to society, as well as to alleviate the severity of existing laws, two regulations seemed indispensably requisite, 1st. *That punishments should be proportioned to offences*, and 2ndly, *that when justly incurred, they should be invariably inflicted*; and the demonstration of these maxims, and the inculcation of the necessity of their adoption, form the great and leading

* The criminal and civil code of Russia underwent a thorough reform under the celebrated "*Instructions*" of the late Empress. At Vienna a similar alteration took place in 1785, and Sweden, Denmark, and other countries, have made important improvements in the system of their penal laws.

feature of almost every work which has hitherto been published on the subject.

Favourable, however, to the interests of the community as such a system may appear, and earnestly as its more general introduction has been recommended, it may justly be doubted whether, *if it could be carried into effect*, it would be attended with the advantages expected from it. To define certain crimes *by the degree of their enormity*, to apply to each a *punishment proportioned to the offence*, and to provide that such punishment *shall be invariably inflicted*, seems to be the perfection of the plan. But it ought not to be forgotten, that these inflictions are not to take place on inert matter, but on a sentient and intelligent being, capable, not merely of bodily suffering, but endowed with feelings of remorse, sorrow, penitence, and shame, which vary in every individual, and are implanted by nature in the human bosom, for the wisest and most important purposes. Disregarding however the effect produced on the patient, the allotted punishment proceeds, equally insensible to the obstinate defiance of hardened guilt, or the agonies and intreaties of the deepest contrition; and having performed *the same invariable operation on every person subjected to its influence*, dismisses them alike, either to persevere in, or reform their conduct,

according to the strength of their constitution, the character of their disposition, or the nature of the circumstances in which they are placed.

Such, it is apparent, would be the effect of a system which should proportion the punishment to the crime, and require its invariable infliction ; if, indeed, we can for a moment suppose that such a system could ever be established ; but when from regarding it in a general view, we attempt to reduce it into practice, we find no certain relation or coincidence between crime and punishment, upon which the opinions of mankind can be expected to agree. Thus, the crime of *theft* has in this country been punished by *whipping*, by *imprisonment*, by *transportation*, or by *death*, and who shall decide which of these is the most appropriate ? That this often depends upon circumstances extrinsic of the crime itself all persons will admit.* To estimate crimes by

* The seventh Chapter of Mr. Bentham's Treatise, intitled : "*Theorie des Peines*," as published by Mr. Dumont, is on *The Analogy between Punishments and Crimes*, in which he conceives that the means adopted in the perpetration of a crime might be applied to its punishment. Thus, a person who destroys or injures another by fire, water, poison, &c. might be punished by a similar operation. But it is evident that any attempt to establish such a principle would be to recur to the rudest practices of the most uncivilized nations ; and indeed neither Mr. Bentham, nor his excellent and learned

the idea we may form of their degree of *moral guilt*, and to punish them accordingly, may seem to some a task of no great difficulty; but when we pretend to judge of moral guilt, we undertake what it is impossible we should accomplish, and find ourselves compelled to rely on those more ostensible indications only, which affect the interests of society. Accordingly all moralists have allowed that this *is not* the criterion upon which a scale of punishments could be formed.* It will perhaps be still contended, that as the measure of crimes is the injury done to society, punishments should be so applied as to deter others from the perpetration of offences by the force of example. Nor will this be denied as long as such examples are founded on a principle of strict justice towards the offender; but when carried beyond these bounds, for the mere purpose of deterring others, it is evident there can be *no limits* to the severity of punishments, but that as crimes increase, punishments must be inflicted "*still more horrible and striking*," till the further possibility of human suffering is exhausted.

Editor, propose to do more than to state *the analogy*, without recommending the adoption of the punishment *absolutely and in all cases*, "*Il ne suffit pas qu'une peine soit analogue pour être convenable; il faut avoir égard à beaucoup d'autres considérations.*"—*Benth. ap. Dumont*, vol. i. p. 50.

* Vide Beccaria, chap. vii.; Paley, and others.

If the prevention of crimes *by example*, were the object in view, the punishment must not be proportioned to *the crime committed*, but to the frequency, facility, or injurious effects of the *crimes apprehended*; and must continually vary with those circumstances, from the extreme of lenity to that of severity. One only rule of punishment can, therefore, be relied on, *viz. that which is necessary to effect the reformation of the offender*. Till this is accomplished, the punishment ought not to be relaxed; as soon as this is effected, punishment is no longer necessary. Whatever advantage may be derived to society from *the example* given by *such process*, is legitimately obtained, and will have its natural and proper effect. *It appeals to the reason and judgment of every individual*, and affords him a conviction, that unless he conducts himself according to the laws and regulations of society, *he will have to undergo a similar process*—whilst the sanguinary and cruel punishments which are indiscriminately inflicted on the hardened and the penitent, before commiserating, or unfeeling multitudes, are either wholly inefficient, or produce sensations in the highest degree unfavourable to moral improvement.

In fact this accurate proportion between crimes and punishments, although held out by many writers as an ideal mark to direct their

aim, has never been found to be practically attainable. “ *Even Beccaria himself, by whom this scale was suggested, does not seem to think that it could be applied with precision to the obscure and infinite combinations of human action. He places indeed in the first place, those crimes which immediately tend to the dissolution of society; in the lowest, those which do the smallest possible injustice to a private member of that society; and between these extremes he puts all actions contrary to the public good, and which descend by insensible degrees, decreasing from the highest to the lowest. But he adds, that it will be sufficient for a wise legislator to mark the principal divisions without disturbing the order; lest to crimes of the first degree be assigned punishments of the last. Blackstone, whose theoretic notions were perhaps corrected by practice, doubts whether a corresponding scale of punishments be not too romantic an idea. But he in effect agrees with Beccaria, when he says, that a wise legislator will at least mark the principal divisions, and not assign punishments of the first degree to offences of an inferior rank.*”*

In the discussions which took place in America, between Dr. Franklin and his associates,

* *Characters of C. J. Fox, by Philopatris Varvicensis, vol. ii. p. 481.*

prior to the relaxation of their penal laws, this idea of the application of *specific punishments to specific crimes* was strongly insisted on; and a very intelligent writer declares, that "*he has no more doubt of every crime having its cure in moral and physical influence, than he has of the efficacy of Peruvian bark in curing the intermitting fever.*"* But let us observe how he succeeds when he attempts to enter into particulars. "*The only difficulty,*" says he, "*is to find out the proper remedy or remedies for particular vices. M. Dufriche de Valaye, in his elaborate treatise upon penal laws, has performed the office of a pioneer upon this difficult subject. He has divided crimes into classes, and has affixed punishments to each of them, in a number of ingenious tables. Some of the connexions he has established between crimes and punishments appear to be just; but many of his punishments are contrary to the first principles of justice in man, and all of them are, in my opinion, improper, as far as he orders them to be inflicted in the eye of the public.*" This ingenious writer has not, however, attempted to substi-

* "An Enquiry into the Effects of public Punishments, &c. by Dr. Benj. Rush, read in the Society for promoting Political Enquiries, convened at the house of Benj. Franklin, Esq. in Philadelphia, March 9th, 1787," published in Dr. Rush's *Essays*, 2nd edit. *Philad.* 1806.

tute any scale of his own; and notwithstanding the efforts that have since been made by other enlightened individuals, it seems by no means probable that this object can ever be accomplished to any useful or beneficial extent.*

The error, however, if we may venture so to call it, is not in the idea that *every crime* (or rather every criminal disposition) *has its cure in moral and physical influence*, but in supposing that there is *some certain punishment appropriated to every crime*, which if it could be discovered would prove an infallible remedy; for when we consider the ever variable nature of the human mind, differing not only in different individuals, but continually fluctuating even in the same person, it is evident, that in order to

* In Mr. Bentham's "*Theorie des Peines, &c.*" edited by Mr. Dumont, vol. i. p. 21, is a passage to the following effect:

"To establish a due proportion between crimes and punishments, is a precept of Montesquieu, Beccaria, and many others. An excellent rule undoubtedly; but given in such general terms, that it must be acknowledged to be more edifying than instructive. Nothing can be said to have been done in this respect, till we have explained in what this proportion consists, and by what rules we must be determined in applying a particular punishment to a particular crime."

He then gives six rules for apportioning punishments to crimes; which he terminates, by acknowledging that the same nominal punishments *are not in fact the same to different persons*; that the punishment *must be modified by the circumstances of age, sex, rank, &c.* and that a *certain latitude* must always be left to the judge.

effect any alteration either of conduct or opinion, such measures must be adopted as are suitable to the peculiar situation, disposition, and feelings of the party; and consequently that *this moral and physical influence* must be applied in such diversity of form, and with such variations of lenity and severity, as may from time to time suit the circumstances of the case. When we speak of punishing crimes, we are in danger of being misled by a figure of speech. In fact, we do not punish *the crime*; but the *individual who commits the crime*; and whatever end the punishment is intended to answer, it must bear a relation to the nature, disposition, and circumstances of such individual. To hang up indiscriminately a certain number of persons, because they have committed a certain act, without any regard to the peculiar circumstances under which such act was committed, or by which every different case is distinguished, or even without any clear idea of the result to be produced, would be the height of folly, if it were not the height of injustice; and with regard to inferior punishments, it must be apparent on the slightest reflection, that the same punishment applied to different persons may produce not only a different, but a contrary effect, and *that* which may be necessary *to reform one, may only serve to harden another*. To apply the same punishment to all, is there-

fore, a kind of *empiricism* in legislation, which pretends by a *certain specific* to cure a *certain crime*, without any reference to the state of the party on whom the nostrum is to be tried. The consequences of this have been most fatal to the interests of society, and under the pretext of an *impartial* administration of justice, the greatest possible diversity has always subsisted, not only in the degree of suffering sustained, but in the consequences produced. That which to one is agony, another disregards; and *transportation*, which by some may be considered as the utmost extreme of misery, may to others resemble an excursion of pleasure.* But this inequality is the least portion of the evil. The only rational object which punishment should have in view, is frustrated by this blind and indiscriminating process; and it is in consequence of this, that criminals, after having gone

* "The same nominal punishments are not in fact the same punishments for different individuals. If the offence be a corporal injury, the same pecuniary penalty which a rich offender would despise, would effectually ruin a poor one. That ignominy, which to a man of high rank would be intolerable, would be disregarded by one in a lower class. An imprisonment, which might ruin a man of business, occasion the death of a person old and infirm, and be the lasting dishonour of a woman, might be almost a matter of indifference to a person under other circumstances."—*Bentham, Theoric. des Peines*, p. 29.

through some *prescriptive* mode of discipline, are again turned loose on society, "*more hardened in their crimes, and more instructed.*" On this subject then, one of the most important that can engage the attention of the human faculties, it is highly requisite that a thorough investigation should take place; in the result of which, it may perhaps appear, that the *talisman* to which we have trusted is no longer to be relied on; that there is *no short and expeditious way* of extirpating moral evil; but that, if we wish to succeed, we must enter upon the task with a full conviction of its importance, and a sincere resolution to bend ourselves down to our labour. We must enquire into the *character, temper, and moral constitution*, of the individual, and acquaint ourselves with his natural or acquired talents, his habits, and his views, in order that we may be enabled to adopt such measures for his improvement, as may be best adapted to the case. If he be *ignorant*, we must *instruct* him; if he be *obstinate*, and *arrogant*, we must *humiliate* him; if he be *indolent*, we must *rouse* him; if he be *desponding*, we must *encourage* him; and this, it is evident, cannot be accomplished without resorting to different modes of treatment, and the full exercise of those moral and sympathetic endowments, which subsist in a greater or less degree between all human beings as incident to our common nature.

In the mean time, this supposed practicability of the adaptation of punishments to crimes, is unfavourable to the progress of real improvement; as one of its expected consequences is, that *punishments should be invariably inflicted*, without any relaxation whatever. That this is the opinion of Mr. Bentham is apparent, from several passages in his works, and particularly from the following, where, under the head of *remissibility*, he thus explains the term. “ *This is where, although the offender has been punished, yet on account of some good behaviour of his, displayed at a time subsequent to that of the commencement of the punishment, it may seem expedient to remit a part of it. But this can scarcely be, if the proportion of the punishment is in other respects what it ought to be. The purpose of example is the more important object in comparison with that of reformation. Whatever then is required for the purpose of example, must abide at all events. It is not any reformation on the part of the offender, that can warrant the remitting any part of it. If it could, a man would have nothing to do but to reform immediately, and so free himself from the greatest part of the punishment which was deemed necessary.*”*

To this reasoning, which, if admitted, would

* Bentham, *Traité de Legislation* à Dumont.

destroy the very principle of the penitentiary system, and establish an inflexible, uniform, and indiscriminating mode of punishment, it may, for the present, be sufficient to reply, that until a regular and efficient scale of crimes and punishments has been formed, it would be premature to avail ourselves of our boasted infallibility; and upon an idea that the judgment given, was *perfectly just and applicable to the offence*, to punish a criminal to *the full extent of his sentence*. Even Mr. Bentham has himself admitted, that "*under the continuance of the present imperfect system, the property of remissibility may be deemed a useful one; but this,*" he adds, "*would not be the case in any new constructed system, in which the rules of proportion before laid down, should be observed.*" That in the opinion of Mr. Bentham himself, such period has *not* yet arrived, is apparent from his constant and successful efforts, for the advancement of every plan that may tend to reform the unhappy offender, and shorten the period of his captivity; and till it does arrive, let us continue to avail ourselves of the most likely measures in our power, to call the guilty to repentance, and to soften the calamities of human nature.

On this subject, it cannot be uninteresting to attend to the very judicious, cautious, and

candid opinion of a celebrated contemporary writer, who, in his examination of Dr. Paley's sentiments respecting the divine justice, has the following passage.*

“ If justice requires that so much pain be inflicted for so much voluntary guilt, it seems also to require that so much pain should not be inflicted after so much expiation made for guilt by voluntary amendment. If the veracity of the Deity requires him to punish offenders, because he has promised so to punish them, it must also require, that a part or the whole of their punishment should be remitted to penitence, because he has likewise promised to accept their sincere and active endeavours to repent. In the sight of the Deity that repentance may not only be a bridle to prevent the sinner from going astray, but a spur to make him advance with more speed in the road to perfection. In the sight of the Deity, that repentance may amount to a complete change of all the moral propensities or habits, which exposed the offender to punishment, and it may ultimately render him a fit subject even of reward. Man, it is true, cannot so penetrate the hearts of his fellow creatures, as to calculate the good effects wrought in them by

* Characters of C. J. Fox, by Philopatriæ Varvicensis, Notes, vol. ii. p. 424.

remorse; and even if he could calculate them, the necessity of deterring other men from similar offences would often compel him to punish, more or less, where the Deity may have forgiven. Still, however, it is of importance for us to remember, that the mercy of that Deity is much oftener recommended to us as a model of imitation, than his justice; and though precepts of*

* There can surely be no other distinction between divine and human justice, than such as arises from the imperfection of man, and his frequent inability to *ascertain* what is right. If then it be just in the Deity to pardon on repentance, it is just in human affairs to pardon those who have given proof of contrition for their crime. That we cannot, like the Deity, *positively* know that this contrition is sincere, is no reasonable objection to the exercise of forgiveness. We do not know with *certainty*, whether the person punished be guilty, and yet, we scruple not to punish him. Can we then refuse, when we have taken cognizance of him as a *criminal*, to take cognizance of him as a *penitent*? and must we not, in both instances, be guided by such evidence as the nature of the case, and the uncertainty of human affairs will admit? A criminal is not less a moral agent after conviction than before; nor can it be denied, from daily experience, that by the adoption of proper means, the reformation of criminals is not only *possible*, but is *frequently*, if not *generally* accomplished. Shall we then close our eyes and ears to the evidence of such a fact? and pretend that the weakness of the human faculties does not permit us to know the heart of man, and that, therefore, we can afford our repentant brethren no relief? or after we are convinced of their amendment, is it incumbent on us to commit a manifest act of *injustice* by punishing them, in the expectation of deterring others from committing a like offence?

this kind may be considered as chiefly applicable to the conduct of private individuals, yet the principles upon which they are founded, deserve to be regarded by legislators, so far as they can follow them consistently with the common weal. It is indeed a salutary, an essential, and even characteristic quality of justice itself, that in providing expedients for the public security, it should be wholly exempt from that vindictive spirit which obstructs the exercise of mercy."

ORIGIN AND PRESENT STATE OF THE
PENITENTIARIES IN AMERICA.

FORTUNATELY, however, whilst the civilized world has been groaning under the effects of a barbarous and sanguinary code of laws, mitigated at times by the milder spirit of philosophy, another system has arisen, which from obscure beginnings has gradually attracted more general notice, till at length it has been adopted in practice, on an extensive scale, and affords a favourable prospect of ultimate success. The earliest traces of this system are to be sought for in a sincere and earnest attempt, to apply to the regulation of the affairs of civil life the pure and simple doctrines of Christianity. On the establishment of Pennsylvania under Charles II., the charter directed that its judicatures should be governed by the common and statute law of the mother country;* but, no sooner

* " The royal charter to William Penn, directs, that the laws of Pennsylvania *respecting felonies, should be the same with those of England, until altered by the acts of the future legislature*; who are enjoined to make those acts as near as conveniently may be to those of England."—*v. Bradford*, p. 14.

had William Penn entered on the exercise of his authority, than, in conformity to the mild and pacific principles of the religion he professed, he formed a code of laws, which appeared to him not only more humane and rational in their principle, but more suited to the circumstances of the country for which they were intended, and which restricted the punishment of death to murder only.* This code was abrogated under Queen Anne, was again established and acted upon for several years, and again overthrown; until the final separation of the American colonies from the parent state, enabled them to adopt such measures with respect to their legislation, as appeared to them most advisable.

On framing the new constitution in 1776, the legislature was directed *to proceed as soon as might be, to the reformation of the penal laws, and to invent punishments less sanguinary, and better proportioned to the various degrees of criminality.* It was not, however, till the year 1786, that a new code of criminal law was

* "Murder, wilful and premeditated, is the only crime for which the infliction of death is prescribed, and this is declared to be enacted in obedience to *the law of God*, as though there had not been any political necessity even for this punishment apparent to the legislature."—*Bradford*, p. 16.

established. By this code the punishment of death was restricted to the crimes of *murder, rape, arson, and treason*, while all other offences were directed to be punished with *whipping, imprisonment, and hard labour in public*.^{*} If any beneficial effects were produced by this restriction of capital punishments, they were counteracted by the injudicious severity of the other enactments, which instead of reforming offenders, only served to harden them in their crimes, and led to "*such a degree of depravity and insensibility, that every spark of morality appeared to be destroyed*."[†] The enormities committed by the criminals themselves, whilst exposed to labour in public, with their heads shaved, and in an infamous habit, became an intolerable evil. Several persons of acknowledged worth and talents, endeavoured by their writings to recommend a further alteration, and the introduction of a milder system. In the year 1787, Dr. Rush laid before the Society for promoting political enquiries, held at the house of Dr. Franklin in Philadelphia, an "*Enquiry into the effects of public punishments upon crimi-*

^{*} See Turnbull's Account of the State Prisons of Philadelphia.

[†] Account of the Penal Laws of Pennsylvania, by Caleb Lownes.

nals," in which he clearly demonstrated their injurious consequences. A Society was formed under the title of *The Philadelphia Society for alleviating the Miseries of Public Prisons*, an attempt which so strongly attracted the notice of our benevolent countryman Mr. Howard, that in his *Account of Lazarettos*, he expresses his willingness to contribute towards a similar institution in his own country, and announces, *that if a permanent charity should take place, under some such title as that at Philadelphia, he would most readily stand at the bottom of a page as a Subscriber for five hundred pounds.** Of the object and proceedings of this society some account will be found in the statement of Caleb Lownes, an early promoter of these beneficent plans, reprinted in the Appendix.

By the exertions of this Society, aided by a great proportion of the other inhabitants of Philadelphia, amongst whom the Quakers distinguished themselves, as well by the wisdom of their measures as by their earnestness and perseverance in the promotion of them, a decided sentiment was produced in favour of a more humane and rational system. William Bradford, who after having held the office

* Account of Lazarettos, &c. p. 259.

of Attorney General for the state of Pennsylvania, was appointed one of the judges, and was afterwards called by the illustrious Washington to fill the office of Attorney General for the United States, published "*An Enquiry how far the Punishment of Death is necessary in Pennsylvania,*" which produced a considerable effect, and induced the other judges who had before been decidedly adverse to any alteration, to concur in the measures proposed by him. The injurious effects of *mutilation*, *whipping*, and *compulsive labour* were acknowledged, and in the year 1790, an act passed for establishing a *State Prison* at Philadelphia, which was placed under the superintendence of a board or committee of Inspectors, chosen from amongst the citizens; whose appointments rested strictly with the mayor and two aldermen of Philadelphia, but who afterwards, when going out of office, nominated as their successors other persons willing to undertake the duty; which appointment was always confirmed. This board consisted of *twelve* persons, seven of whom formed a *quorum*, and met once a fortnight in the Inspectors' room. Two of them were obliged to go over the whole prison together every Monday, and oftener, if occasion required. Their duty was to inspect and examine not only the keeper and other officers,

but particularly the behaviour and disposition of the prisoners, to see that they were properly and sufficiently employed, to enquire into their health, and take care that their food was served in quantity and quality agreeably to the directions of the board; that the sick were properly provided for, and that suitable clothing and bedding were furnished to all. They were to hear the grievances of the prisoners, and bring forward the cases of such whose conduct and circumstances might appear to merit the attention of the board. Besides a regular attendance of the visiting Inspectors, the prison *was every day visited* by some one or more of the committee; "who all took great delight, and were indefatigable, in the execution of the humane task allotted them."

Such was the effect of this assiduity on the part of the inspectors, combined with that of the governor and judges, who together with the mayor, visited the prison *quarterly*, that in the year 1791, it appears from the report of the inspectors to the governor, that "*the prison was no longer a scene of debauchery, idleness, and profanity, an epitome of human wretchedness, a seminary of crimes destructive to society, but a school of reformation, and a place of public labour; and that of the many who had received the governor's pardon, not one returned a*

*convict.** That the same fortunate results continued to be obtained, appears from the narrative of one of the earliest and most zealous promoters of this institution, by which we are informed, that “*out of near two hundred persons who had been recommended to, and pardoned by the governor, only four had been returned; that the roads in the vicinity of the city, so constantly infested with robbers, were seldom disturbed by those dangerous characters; the houses, stores, and vessels, so perpetually robbed, no longer experienced those alarming evils. There had been but two instances of burglaries in the city and county for near two years. Pickpockets, formerly such pests to society, were unknown. Not one instance had occurred of a person being convicted of that offence for two years past, and the number of persons convicted at the several courts had constantly decreased.*”†

* See the first Report of the Inspectors of the Prison of Philadelphia, Appendix, No. I.

† See *An Account of the Alteration of the Penal Laws of Pennsylvania*, &c. in the Appendix, No. II.—This Tract was first published with Mr. Bradford's *Enquiry*, &c.; in 1793, and reprinted in London, in 1795, but, as it contains a very particular account of the first establishment and discipline of the State Prison of Philadelphia, I have thought it intitled to more general circulation. The worthy author is noticed by the Duke de Rochefoucauld Liancourt, who, after mention-

In 1794, Mr. Thomas Eddy, a citizen of New York, convinced of the beneficial effects of such a system, procured a number of copies of the Report on the Criminal Laws of Pennsylvania, drawn up by Mr. Bradford, with an account of the Penitentiary there, and transmitted them to two of the members of the legislature at New York, then sitting at Albany, in order that they might be distributed amongst the other members. He also made several visits to the State prisons at Philadelphia, for the purpose of obtaining the most complete and satisfactory information as to the operation

ing the Quakers with approbation, says, "Un d'entr'eux (Caleb Lowmes) en a presque à lui seul tout l'honneur. La doctrine de Beccaria et d'Howard a promptement germé dans son cœur tout humain. C'est lui qui a principalement animé ses frères de l'espérance de son exécution. C'est lui qui a provoqué le changement de régime dans les prisons; qui a proposé d'y substituer la douceur, la fermeté et la raison, aux fers et aux coups; qui s'est laissé patiemment traiter de visionnaire, sans ralentir ses démarches; dans l'entière confiance du bien que sa persévérance opérerait. C'est lui dont le zèle infatigable, intéressant à sa cause tous ceux qu'il croyait pouvoir l'aider dans sa réussite, a obtenu de la confiance de la législature, ces lois, je ne dis pas seulement de bienfaisance, mais de justice stricte, de politique bien entendue. C'est lui, enfin, qui consentant à être élu inspecteur à chaque nomination, est l'agent principal de cette œuvre respectable de raison et d'humanité."—*Voyage dans les Etats Unis, &c.*

of the new system, in which he was assisted "by his worthy and intelligent friend, Caleb Lowmes." General Schuyler, a distinguished member of the senate, interested himself deeply in the cause, and a bill was brought forward by him for making alterations in the criminal laws of the state, and the erecting of State prisons, which was carried with only one dissenting voice, and in the house of assembly with but nine opposing votes. This bill was passed into a law in April, 1796.

By this law, which has since received several amendments, all those crimes (excepting *treason* and *murder*, which continue capital) that were before punished with death, were punishable by imprisonment for life; all offences above the degree of petty larceny, are punishable for the first offence by imprisonment, for a term not exceeding fourteen years, and for a second offence for life. Petty larcenies for a term not exceeding one year; and persons guilty of a second offence, were to have their punishment augmented for a time not exceeding three years. All persons convicted might also be subjected to hard labour, or solitude, or both, at the discretion of the court. Forfeiture of goods and lands, except for treason, deodands, and corporal punishments, were wholly abolished.

For the management of the prison, *seven*

inspectors were appointed by the governor and council during pleasure. No salaries were paid to them; actuated by principles of benevolence, and a love of justice and humanity, they offered the voluntary contribution of their services. They sought no other recompense than those feelings which accompany the exertions of good men for the benefit of society. It was their duty to enquire into and inspect the general state of the prison; to see that the keepers were attentive and faithful in the discharge of their several duties; that cleanliness, decency, and order, were every where maintained; that the prisoners were treated with justice and humanity; to listen to their complaints and communications; to admonish the bad, applaud the good, and encourage all to amendment and reformation; and to give them such advice as might awake virtuous sensibility, and promote their moral and religious improvement.*

Under such directions, the Penitentiary at New York was as successful in its operation as

* See the *Account of the State Prison, or Penitentiary in the City of New York, for the year 1817, Appendix, No. IV*; the chief part of which is reprinted from the first account of that Penitentiary, drawn up by Mr. Eddy, and published in 1801, in which are many judicious and excellent observations respecting the management of that and similar institutions; well deserving the attention of all persons who interest themselves on this subject.

that at Philadelphia; and similar establishments, under the name of State prisons, have since been founded in *Massachusetts, Vermont, Connecticut, New Jersey, Maryland, Virginia*, and other places.

For some time after their commencement, these establishments appear to have answered every purpose which their promoters had in view. Most of them were conducted by persons who undertook their management without the inducement of salaries, or any other interested motive, and under their direction they continued for a course of years to be productive of the most beneficial effects. There is, however, reason to apprehend, that as these institutions were, from various causes, deprived of this assistance, a relaxation of discipline took place; and that as the terms of commitment began to expire, or the prisoners were discharged on pardon as reformed, the number of those recommitted *for new offences* began to increase. This circumstance, combining with the rapid increase of population in every part of the United States, occasioned such an influx of prisoners, that the buildings became inadequate to their reception, or at least to afford that accommodation which is indispensable to their utility.

The State prison of Massachusetts had been established at Charlestown, in the vicinity of

Boston in 1805, and was placed under the superintendence of a board of visitors, which, after frequent changes in their number, was exchanged in 1811, for the government of a warden and three directors, under which it still continues. From the reports of this institution, it appears to have struggled with considerable difficulties. The convicts were sentenced to *hard labour*, "*and it was a fond, though false expectation of some of the advocates for such an institution, that the proceeds of this labour would pay all the expense of the establishment.*" Disappointed in the hope of *compelling* convicts to become industrious, without an inducement, and alarmed at the unfavourable state of the prison, and the increase of expense, it became a matter of doubt, "*whether it had answered the purpose for which it was intended?*" which question we are informed, "*might be answered negatively or affirmatively, as various sentiments and opinions predominate.*"* In this situation, the Legislature of Massachusetts thought it expedient, in the year 1817, to appoint three commissioners, "*to inquire into the mode of governing the Penitentiary of Pennsylvania, and others of a similar nature; to consider at large the subject of the*

* See the Report of the State Prison of Massachusetts for 1817, in the Appendix, No. V.

State prison (of Massachusetts), and to report any improvement which can be made in the government, organization, or enlargement of that establishment."

Thus authorised, "*the Commissioners inspected by one or more of the board, the several Penitentiaries or State Prisons of Connecticut, New York, New Jersey, Pennsylvania, and Maryland,*" and have since made their Report respecting the same; which, as it contains matter highly interesting to other countries, as well as to the United States, is given at length in the Appendix to the present volume.* From this Report, it will be seen with regret, by those who have supposed that the American establishments have been attended with *uniform success*, that this has not been the case; and that considerable difficulties have occurred, and are yet to be surmounted, before the object they have in view can be accomplished. Such is the nature of these documents, that their publication, at the present season, may be thought likely to operate with an unfavourable effect on the measures in agitation in this country for the adoption of a similar system; but considerations of this nature are, in fact, an additional motive for laying them before the public without delay: as they may serve to point out, and

* Appendix, No. VI.

thereby enable us to avoid the causes which have led to this situation.

With respect to the Penitentiary at Philadelphia, the Commissioners observe, that "*during a few years after its establishment, it was provided with sufficient room, and proper accommodations for the separation of the convicts from each other. By the vigilance of the keepers all intercourse and communication was prevented by day; and at night the prisoners were lodged in solitary cells.*" During this period, the establishment was productive of the happy effects before described; but in the year 1817, "*it afforded a striking contrast. The building in which the prisoners were confined, and the yard in which they were employed, were the same used for those purposes in the year 1795. No additional accommodations, either for the lodging, or employment of the convicts, had been provided.*" The consequences were, that "*the very crowded state of the Penitentiary became an evil of considerable magnitude.*"—"The number of persons of all classes continued to increase, so that from twenty to forty were lodged in rooms of eighteen feet square. So many are thus crowded together in a small space, that the institution already begins to assume the character of an European prison, and a seminary for every vice—in which the unfortunate being who commits a first offence, and knows none of the arts

of methodized villainy, can scarcely avoid the contamination which leads to extreme depravity." "Such," it is added, "*is the actual state of the Pennsylvania Penitentiary.*"

The Penitentiary at New York, according to the same report, had "*not only failed of effecting the great object chiefly in view, but had subjected the Treasury to a series of disbursements, too oppressive to be continued, if they can in any way be prevented.*" The sources of the evils noticed in the same report are stated to be, "*the neglect of providing in season the necessary accommodation for the due separation of the convicts, and the present crowded state of the Prison;*"—"to which may be added, as derived from another respectable source, a relaxation of the steady and strict discipline introduced and maintained by a respectable member of the Society of Friends, for a short period after the institution was established."

The same circumstances which apply to the State prisons at Philadelphia and New York, apply also, in different degrees, to the Establishments in other parts of the United States; from which there is every reason to conclude, that this great alteration, which has been experienced in the utility of these institutions, has been occasioned, *in the first instance*, by a relaxation in that kind and gratuitous care and

attention, which, in the origin of these institutions, was afforded by those benevolent individuals who interested themselves in their formation. The inevitable consequence of this misfortune appeared, in the return to prison, for new crimes, of many of the convicts who had been pardoned, as reformed. In the mean time, from the increasing population of the country, the buildings became inadequate to the purposes for which they were originally sufficient—the separation of the criminals from each other, and the subjecting them to a regular system of physical and moral discipline. In the establishment of a Penitentiary, it is a first and indispensable duty to provide against the contamination and corruption of the objects which it professes to take under its care; and if it cannot render them better, not, at least, to become instrumental in rendering them worse; but when these institutions are suffered so far to decline from their original purpose, as to form places of assembly for criminals of all descriptions, to meet together, *for the invention and practice of every species of vice and depravity*, it is to no purpose to expect that any beneficial result can be produced; and whether the convict be discharged *by a pardon*, obtained by a pretended penitence, or continues a prisoner *to the end of his sentence*, there is every

reason to presume that he will, on his liberation, shortly return to his former abandoned course of life.

But the mere want of sufficient accommodations for the prisoners is not *the only cause* of the present unfavourable state of the Penitentiaries in America. Perhaps a still more substantial one may be found in the injudicious practice of receiving a *second*, a *third*, and even a *fourth* time, into these institutions, such criminals as have already undergone a series of discipline, and have been discharged before the expiration of their sentence as persons effectually reformed.

It is indeed impossible to conceive any proceeding more derogatory to the character, and destructive of the benefits of these institutions, than this repeated and inefficient attempt. By the reception of a criminal for a *second* offence, who has already been discharged *as reclaimed*, the establishment confesses its own inutility, and is no longer a school of reform, but a *receptacle and shelter for acknowledged guilt*.* The prisoners confined under the expectation of being reclaimed, finding themselves intermixed with abandoned profligates, who have

* In the Magdalen Hospital, and the London Female Penitentiary, no persons are admitted who are known to have been in the institution before.

gone through the same process without effect; will despair of their own recovery, or be induced to relax in their efforts; and finding that such criminals can again be received, will have no higher wish than to imitate their example. Nor can it be contended, that there is any motive to operate upon the mind of the discharged criminal, with sufficient force to deter him from the perpetration of future offences, whilst he contemplates, as the worst consequence, his recommitment to a place with which he is already well acquainted, and which, by long habit, he has learnt to render tolerable, if not agreeable.*

In fact, the readmission into a Penitentiary of any person who has been discharged as *reformed*, affixes a stigma on the character of the establishment itself; because such person may be presumed to have availed himself of the credit given him by the institution, to impose

* In the Report of the New York State Prison, for 1815, an instance is recorded, of *Charlotte Thomas*, alias *Margaret Devire*, who was admitted Jan. 28, 1797, for *grand larceny*; sentence, *four years*; pardoned, July 14, 1800. Re-admitted, 14th April, 1801, for *petty larceny*; sentence, *two years*. Again: admitted, June, 1803, for *petty larceny*; sentence, *three years*. Admitted again, August 12, 1806; *two indictments, petty larceny*; sentence, *four years*: and again admitted, for the *fifth time*, on the 19th June, 1813, for *grand larceny*; sentence, *three years and one day*!

upon others, and in all probability to commit crimes, which otherwise it would not have been in his power to do; thereby not only throwing discredit on such institution, but making it, in a manner, accessory to his offence.

It will, perhaps, be said, that by excluding from a Penitentiary so many offenders, its benefits will be only partially extended, and that the foregoing objections may be obviated *by a proper Classification of criminals*, according to age, sex, and degrees of guilt; but that this method can prevent these establishments from being *overwhelmed* with numbers of convicts, whilst they continue to be received for a *second*, a *third*, or *fourth* offence, is not to be expected. It must not be forgotten that a Penitentiary, however extensive, *has only a certain portion of utility to confer*; which must be employed with discretion, where it may be productive of the most benefit; but if a great number of irclaimable delinquents are allowed to return, on the conviction of every new crime, under sentence for *long terms of years* or for *life*, they may be considered as having possessed themselves of the whole institution, and engrossed or absorbed all its usefulness; which, although of no advantage to themselves, is thus perverted from its proper object, and withheld from such persons as would be likely to avail

themselves of the opportunities of improvement it affords.

Amongst the means recommended by the Commissioners for Massachusetts, for remedying the evils complained of, they have proposed to the legislature the passing an act, providing, that when a convict should be sentenced a second time to a State prison, "*there should be added to the term of his sentence five years' detention and employment at hard labour; on a third sentence, ten years; and when convicted a fourth time, to be imprisoned for life.*" Whatever the effect of such a regulation might be in other respects, it is certain, that inasmuch as it would tend to increase the number of prisoners, and to confine the advantages of the institution to the same objects, it would increase rather than diminish the evil. It must be apparent to every one, that it is only by *abridging* the frequency and duration of imprisonment, as much as possible, that a Penitentiary can exist, or at least can exist with any beneficial effect; and that consequently, whatever tends to *burthen it with prisoners for long and inextinguishable terms*, destroys its utility and perverts its object. The only effectual remedy for these evils is to be found in a course precisely *the reverse* of that recommended; in a regulation, *that no delinquent who has*

been discharged from a Penitentiary shall ever be admitted a second time, and that other modes of treatment should be provided for such criminals as have thus rejected the opportunity so beneficently held out for their reformation. What this treatment should be, may become a subject of difficult discussion in a Country which, like the United States of America, has no foreign possessions; but in this country, *the proper punishment of all such offenders, would, perhaps, in most cases, be transportation for life*. Nor does it appear impracticable for the American States to obtain a proper situation for a similar purpose. By such a measure, penitentiary establishments would be devoted to their true object, *the reclaiming those, of whose amendment a reasonable expectation may be formed*; and would not only be maintained with much less trouble and expense, but would stand high in the public estimation, *as schools for inculcating industry, religion, and good morals*. By these means the country would also be freed from the most incorrigible part of its population, and purified from the danger of their example, and their crimes; whilst such a sentence might still admit of a hope, that in a different situation, and under the influence of different motives, the most hardened criminals might find it necessary to make an effectual alteration in their

conduct. Nor is there, in fact, a greater hardship in transporting a criminal for life, provided it be to a healthy climate, where he has a fair opportunity of obtaining his subsistence, than it would be to send him for a short term of years; because, in the one case, having no expectations but such as are connected with the country to which he is sent, he will, probably, employ all his faculties in bettering his condition; whilst in the other, his transportation is regarded only as a visit, during which he is to pass the time as indolently and uselessly as he can, till he is allowed to return, to renew his adventures and depredations in his native land.*

Amongst the causes assigned by the Commissioners of the state of Massachusetts, for the alarming change which has taken place in their Penitentiary establishments, they have enumerated the too frequent exercise of the power of pardoning criminals before the expiration of

* In the examination of *Vickery*, the Bow Street officer, before the Committee of the House of Commons, he expresses an opinion that it is much better that transportation should be for fourteen years (than seven); "for then there is *no prospect of returning again*, whereas, when they only go for seven years, they do not forget their old connexions and companions at home; and as soon as they come back to England, they return to their old connexions, and are as bad as ever." *Min. of Evidence of Police Committee*, p. 335.

their sentence, and seem strongly inclined to question the expediency of such power altogether.*

That the power of pardoning may, like every other beneficial institution, be abused, cannot be doubted; and that it has been too indiscriminately exercised in some places in the United States, and particularly at New-York, is a generally received opinion; but such a power is too intimately connected with the very nature of a *Penitentiary* to be relinquished, till it be fully ascertained whether the evil consequences attributed to it are really inherent in it, or have not in fact been occasioned by other causes. A *Penitentiary*, where *penitence* is of no avail, is a solecism; and these establishments, if such a principle were abandoned, would no longer be places of *reformation*, but places of *punishment*, subject to most of the objections of the ancient system, with many additional inconveniences of their own. On the other hand, the *extension of pardon to penitent and reformed criminals*, is not only an act of *strict and unalterable justice*, but is essentially necessary to the very nature of a *Penitentiary*; not only as it tends to excite and keep alive in the minds of the convicts those hopes and dispo-

* See the Report of the Commissioners in the Appendix, No. VI.

sitions which are requisite to their amendment, but as it enables the establishment to extend its beneficial effects to a much greater number of objects than would otherwise be the case. The commissioners for Massachusetts have indeed themselves adverted to the true principle, when they observe, that “ *If it were understood by the convicts, that they could free themselves from confinement only by their industry, and that their return to society would depend wholly on their own exertions, a new spirit would prevail amongst them, which would insure the performance of their assigned tasks.*”

It is not, however, to be denied, that indispensable as the power of pardon may be to the very existence of a Penitentiary, it is that department, which of all others, requires in its exercise the greatest caution. If inspectors or managers could be found, in uninterrupted succession, of sufficient discretion and ability to distinguish the truly meritorious from the profligate, the penitent from the hypocrite, the important office of selecting from time to time proper objects for the clemency of government, might be left with confidence to their judgment; but as this is perhaps too much to expect from the imperfection of human nature, it becomes necessary to provide such *permanent rules* for prosecuting their enquiries and forming their decision, as, whilst they admit of

every benefit to be derived from such a plan, may guard against its abuse. These regulations should not only define the cases, but prescribe the manner, in which this discretionary power should be exercised; and on this head, the observations at the close of the Report of the State prison of New-York, for 1816, reprinted in the Appendix, will be found highly valuable. The principal requisites there suggested, are, that in every recommendation for pardon, a *majority of the inspectors should join*;—that before such recommendation, they should enquire, *whether the prisoner was convicted by clear and undoubted testimony—whether the circumstances attending the commission of the crime denote a greater or less degree of depravity—whether the prisoner has already suffered a punishment sufficient to satisfy society, and to afford a reasonable ground to believe that his release will not diminish the dread of future punishment in him, or inspire the hope of impunity in others—whether, while in prison, he has conducted himself with uniform decency, industry, and sobriety, and has never attempted to violate any of its regulations—and lastly, from what is known of his temper, character, and deportment, whether it is probable, that if restored to society, he will become a peaceable, honest, and industrious citizen.* “These enquiries,” adds the judicious writer, “ought to be satisfactorily

answered in favour of the convict, before he is recommended for pardon; for it is not a common or ordinary course of good conduct and industry, but a pre-eminent and unexceptionable behaviour that should entitle a prisoner to this grace."

Now, as it is obvious that these requisites cannot be complied with, unless *by the confinement of the criminal for a sufficient portion of time*, it will follow, as an evident consequence, that a certain interval must elapse before any criminal can be discharged by pardon; and as the convict would, at any time after the expiration of such term, have it in his power by his good behaviour to obtain a remission of his sentence, it would perhaps be proper that the ultimate term of his confinement should be extended beyond the period that has been usual, whilst imprisonment was considered (and very justly) merely as a punishment, and carried to such a distance, as to afford a reasonable and sufficient time for the inculcation of better principles and habits, and the effectual reformation of the offender; and thus a security would be obtained against the exercise either of undue partiality, or of that indiscreet compassion which "*may be gratifying to the individual, but, as regulated by no fixed principle, must be injurious to the public.*"

From the foregoing observations it may, perhaps, sufficiently appear, that the present un-

favourable condition of the Penitentiaries in the United States of America, is not to be attributed to any disadvantages *unavoidably incident* to the system itself, but may be fully accounted for by the relaxation of that kind and constant attention, which is requisite to the utility of such establishments; by the inadequacy of the buildings to the increasing population of the country, and the influx in consequence of emigration from the West Indies and other parts; by the privation of the prisoners, in several of the penitentiaries, of the whole, or too great a proportion of their earnings; and, above all, by the re-admission of criminals who have once been discharged, upon the conviction of a second offence.

It must indeed be admitted, that the facts here stated present a more unfavourable view of the American Penitentiaries than has before been given in this country; but this by no means militates against the truth and accuracy of the reports on this subject which have so frequently been laid before the public, and which on examination will be found to relate to a former period, whilst these institutions continued to answer their intended purpose. It is indeed only of late, that the inconveniences complained of have arisen to such an alarming degree; and these, there can be no doubt, will be speedily remedied by a recurrence to the princi-

ples on which these institutions were originally founded, and to the system of discipline which was then maintained. At the same time the errors, no less, perhaps, than the improvements in criminal discipline and jurisprudence, of which the Transatlantic states have set the example, may be of use to others who choose to avail themselves of them ; and may shew what is to be avoided on the one hand, as well as what is to be followed on the other.

THE PENITENTIARY SYSTEM ON THE CONTINENT
OF EUROPE.

THAT the practice of subjecting criminals to labour had been adopted by many nations on the continent of Europe, long before it was known either in this country or America, is certain. On Mr. Howard's first excursion in 1775, for the purpose of inspecting the state of the prisons in foreign parts, he found that criminals were employed, in various kinds of work, in most of the principal cities through which he passed; in some of which, it is probable, the same system had been carried on for centuries.* "Offenders," says he, "are sentenced according to their crimes, for *seven, ten, fifteen, twenty years*, and upwards; but, to prevent despair, *seldom for life*. As an encouragement to sobriety and industry, those who distinguish themselves by such behaviour, are discharged *before the expiration of their term*. A prisoner

* "The best and most satisfactory account both of the ancient and present state of these houses, may be found in *Pontanus's* Latin, and *Wagenaar's* Dutch, Description of Amsterdam."—*Howard's Account of Lazarettos*, p. 229.

who gives information of an intended escape, is favoured much in this respect; his term is considerably shortened. A little before the election of new magistrates, those who are in office inspect these prisons, and inquire of the keeper, which prisoners, of those who have been confined a few years, have been diligent and orderly; and of the minister, which of them have been most attentive to public and private instructions. According to the accounts, they contract the appointed time of punishment; so that *fourteen* years will sometimes be reduced to *eight* or *ten*, and *twelve* years to *six* or *seven*. This practice of abridging the time of punishment upon reformation is, in every view, wise and beneficial. Indeed, I have some reason to think that criminals are often doomed to a longer term, *with an intention to make such deductions upon their amendment.*”*

Proceeding through Holland, Mr. Howard visited Rotterdam, where he found a *Rasp and Spin House*, in which were about forty men, and a hundred women. “*The former were employed three or four in a room, making fishing nets, carding wool, sorting coffee, &c.*” The latter mostly *in a manufacture of worsted, “ spinning, and working at a great wheel, like*

* *State of Prisons*, First Edit. p. 122.

those which at Derby are turned by water.* At Delft, there were ninety in the House of Correction; *men and women quite separated; all neat and clean, and looked healthy.* They were all employed in a *woollen manufacture; women spinning, carding, &c. Men weaving from coarse to very fine cloth.* If a prisoner had behaved well for a few years, and given proofs of amendment, the magistrates began to abridge the time for which he was sentenced. "*One whom I saw very cheerful,*" says Mr. Howard, "*told me the cause of his joy was, that a year had lately been taken from his term.*"†

At Amsterdam, the principal employment for the men is *rasping logwood*; but regard is had not only to the degree of guilt, but to the strength of the prisoners. Some were in the warehouses, *sorting and weighing*; others bringing the wood to the rooms, &c. At extra hours they made tobacco boxes, &c.; which they sold to visitants, who paid two stivers to go in.‡ In the spin-house Mr. Howard saw thirty-two women criminals, some of whom had been the most abandoned, sitting in presence of the *Mistress*, quiet and orderly, at their different sorts

* *State of Prisons*, 1st Ed. p. 192.

† *Ibid.* 142, 144.

‡ *Ibid.* p. 196.

of work, *spinning, plain work, &c.* "I saw them," says Mr. Howard, "go from work to dinner. The keeper, as they call him *father*, presided. First, they sang a psalm; then they went in order down to a neat dining-room, where they seated themselves at two tables, and several dishes of boiled barley, agreeably sweetened, were set before them. The father struck with a hammer. Then, in profound silence all stood up, and one of them read with propriety a prayer about four or five minutes. Then they sat down cheerful, and each filled her bowl from a large dish, which contained enough for four of them. Then one brought on a waiter slices of bread and butter, and served each prisoner."*

In January, 1787, there were in the new work-house at Amsterdam, 350 persons spinning in one long room; some were employed in *boiling ropes and cables*, and preparing them for oakum. The women from the *Spin-house* had been removed thither, and Mr. Howard found the same order and quietness that he had formerly observed in that house. Forty women were *at needle-work*, and the *mother* presiding in the midst of them. Over one of

* *State of Prisons*, p. 127.

the outer gates is a device, with an inscription to this purpose :

“ *Fear not ; I mean not vengeance, but your reformation.
Severe is my hand, but benevolent my intention.*”*

In 1775, Mr. Howard visited the House of Industry at Ghent, called the *Maison de Force*; which, although then in an unfinished state, was conducted with regularity, decency, and order. All the criminals were employed, and an exact account kept of every circumstance relating to each man's work, and there were excellent rules for preventing all quarrelling, for mending their morals, preserving their health, and making them for the future useful in society. In 1778, he visited it again, and found they were still carrying on a well regulated manufactory. All the prisoners were employed in different occupations, by which they contributed to their own support. Their bread, soup, and meat, were good and plentiful, and all bespoke the care and attention of the director. But in 1783, when he visited it for the last time, he found a great alteration for the worse. The flourishing and useful manufactory was destroyed ; the prisoners deprived of the opportunity of work, and their victuals reduced ; and all this occasioned by an edict of

* *Account of Lazarettos*, p. 73.

the Emperor; who had been led to suppose that the manufactory interfered with the regular traders, and was injurious to the interests of the state.* It appears, however, that this absurd prohibition was not long continued, the former plan having been restored, and with it the health and order, and good moral conduct of the prisoners, which had been greatly injured and deranged, whilst they had been debarred from their usual labours. This prison was again visited in 1817 by Mr. Buxton, who has given a particular account of it in his excellent and useful work.†

It was on the visit of Mr. Howard to Ghent, that he seems to have formed a decisive opinion, from the comparative superiority of the measures adopted on the continent in the treatment of criminals, on the great advantages that would be derived from the introduction of a

* The same objection is not infrequently heard, as a reason against employing criminals in this country. In answer to which, it may be observed, that persons confined in a gaol must either be allowed to *support themselves*, or must be *supported by the labour of others*; and which of these is most *advantageous* to the community, it is surely not difficult to decide. And again, as it is presumed they *must* live, of what moment is it to the community, whether they obtain their livelihood *within* the walls of a prison, or *without*.

† Mr. Buxton's *Inquiry*, &c. p. 82, &c.

similar system in our own country. These, his deliberate convictions, it would be impossible to express in language equally impressive, unassuming, and convincing with his own. "When I formerly made the Tour of Europe," says he, "I seldom had occasion to envy foreigners any thing I saw with respect to their *situation, their religion, manners, or government.* In my late journeys to view their *prisons,* I was sometimes put to the blush for my native country. The reader will scarcely feel from my narrative the same emotions of shame and regret as the comparison excited in me, on beholding the difference with my own eyes. But, from the account I have given him of foreign prisons, he may judge whether a design of reforming our own be merely visionary; whether *idleness, debauchery, disease, and famine,* be the necessary attendants of a prison, or only connected with it in our ideas, for want of a more perfect knowledge and more enlarged views. I hope too he will do me the justice to think, that neither an indiscriminate admiration of every thing foreign, nor a fondness for censuring every thing at home, has influenced me to adopt the language of a panegyrist in this part of my work, or that of a complainant in the rest. Where I have commended, I have mentioned my reasons for so doing, and I have dwelt perhaps more minutely upon the manage-

ment of foreign prisons, because it was more agreeable to me to praise than to condemn."*

If the foregoing statements were not sufficient to shew the great extent, to which the system of employing criminals in labour had been carried on the continent, long before Mr. Howard's first visit, it would be easy to enlarge the same from numerous instances given in his subsequent journeys, particularly to *Berlin*, *Prague*, *Naples*, and *Rome*; in all which, and many other places, he found establishments which, whilst they did honour to the government, restrained the excesses and improved the morals of the people; and were perhaps the real and substantial causes which in some places prevented a total relaxation of moral discipline. For these and many other particulars, I must, however, refer the reader to the valuable works of this truly great man, and to the *Memoirs of his Life*, lately published by Mr. Brown, in which much additional and interesting information will be found on this subject; but there are two observations so closely connected with our present purpose, that I hope to stand excused in presenting them more particularly to the attention of the reader. It is well-known that this great

* *State of Prisons*, p. 145.

philanthropist considered himself merely as a laborious collector of materials for the use of future times, and that he has seldom attempted to combine and compare, and draw deductions from the immense mass of valuable information which he obtained; yet, that he intended they should be subservient to this purpose is apparent from his own frequent declarations; and we may therefore hope, that in thus employing them, we may perform a grateful office to his own benignant and now happy spirit.

In the course of his narrative, Mr. Howard has frequently adverted to the very rare occurrence of *capital punishments* in some parts of the continent, and particularly in Holland. On his first visit to Amsterdam, he was informed, that there had been no execution there for the last two years, and that, *for a hundred years past, there had not been, communibus annis, more than one a year.* Again, on enquiry at Utrecht, he found that there had been no execution for the city or province, for twenty-four years, preceding January, 1787,† and that in all the seven provinces, there are seldom more executions in a year, than *from four to six.*‡

* *State of Prisons*, p. 125.

† *Account of Lazarettos*, p. 74.

‡ *State of Prisons*, p. 120.

On this, and his subsequent visits to the United Provinces, Mr. Howard also found in all the principal cities, Penitentiaries which under the name of *Rasp and Spin Houses*, had been long established. "In the former, men were put to labour, in the latter women, upon this professed maxim, *make them diligent, and they will be honest*;"* but the Dutch, finding woollen manufactures more profitable, had within the last twelve years set up several of them in their Houses of Correction. *Great care is taken to give the prisoners moral and religious instruction; and reform their manners, for their own and the public good; and I am well informed,*" says Mr. Howard, "that many of them came out sober and honest."†

After these statements of such striking facts, may we not be allowed to take it for granted, without fear of contradiction, that the employing and reforming the criminals in the Penitentiaries, by preventing the necessity, is the substantial cause of the *very rare occurrence* of capital punishments? Every reader may determine for himself, whether, if no such houses of industry had existed, the number of executions would, in all likelihood, have been diminished or increased.

The other striking circumstance, to the truth

* *State of Prisons*, p. 121. † *State of Prisons*, p. 122.

of which the works before mentioned bear continual evidence, is, the astonishing difference which is effected in the state of the prisons, and the nature of imprisonment on the continent, wherever the *penitentiary system*, though in a very imperfect form, has been introduced. Of the dreadful dungeons which Mr. Howard found in many places, of the horrible instruments of torture, which were not infrequently used, and of the wretched, sickly, and desponding state of the miserable victims of a diabolical and cruel policy, who languished out their lives in weariness and inaction, his works contain innumerable instances; but these sights of horror, which would otherwise have been too much for human feeling to sustain, were occasionally contrasted by more cheering objects; and the inspection of a place of confinement in which the prisoners were employed in useful labour, never failed to enliven his spirits, not only as a sight gratifying in itself, but as affording him the promise of the rapid extension and final establishment of so beneficent a system. What served to render this contrast the more striking, was, that in many of the principal cities through which he passed, there were gaols on the ancient plan, where prisoners were confined without being suffered to work; and houses of industry, where various branches of manufacture were

carried on with great activity; and the difference in the character and appearance of the prisoners, and in the cleanliness and order of the place, sufficiently demonstrated the infinite advantages derived from the improved system. Thus, in the *Maison de Bourreau*, at Prague, some of the prisoners were confined in dungeons, in one of which, down twenty-four steps, Mr. Howard found a person who he thought was sick of the gaol fever. "He was loaded with heavy irons, and chained to the wall: anguish and misery appeared with tears clotted on his face." On examining his breast and feet for *petechiæ* or spots, and finding he had a strong intermitting pulse, Mr. Howard was convinced he was not ill of that disorder.* But whilst these horrible scenes occurred in the City Prison, Mr. Howard found in the House of Correction all the prisoners at work, principally on woollen manufactures, and *receiving the whole of their earnings for themselves.*† At Trieste, where the

* One of the most striking (though, for this country, disgraceful) facts, which Mr. Howard was enabled to establish, was, that the gaol-fever was not known in *any part of the continent*, but is peculiar to the air-closed gaols and horrid dungeons of *these kingdoms*!

† *Brown's Life of Howard*, p. 284.

prison consisted of eight or ten very close offensive rooms, "the pale countenances of the prisoners bespoke at once their own misery, and the negligence of the magistrates and keepers;" but the convicts in the castle seemed healthy, clean, and well, and were employed for about ten hours a day upon the roads, in clearing the harbour and other public works.* Of similar occurrences, the narration of this beneficent traveller affords numerous instances; but, perhaps, the most striking is that which he has recorded of the City of Bremen, where he found an excellent House of Correction, "clean and quiet," containing many hundreds, who were employed in manufactures of various kinds, and had one fourth of their earnings given them for their own use; whilst in other respects he met with instances of severity, and even of cruelty, which made his heart sicken at the recital. Of these it may be sufficient to mention, that on his second visit to that city, he inspected a prison, in which were six close dungeons without windows, one of them but six feet, nine inches, by four feet and a half, and seven feet high. "This dismal abode of human wretchedness contained at that time no prisoners; one who had been confined there

* *Brown's Life of Howard*, p. 286.

having lately beat himself to death against the wall, which was stained with his blood.”*

The introduction of labour amongst criminals in France, seems to have been much more recent. When Mr. Howard visited Paris in 1779, he saw above two hundred persons, confined together in idleness in the *Bicêtre*, “to the great corruption of their own manners, and the serious injury of the state; many, he assures us, have, at their unhappy end, ascribed their ruin to the flagitious examples they had seen, and to the instructions given them in this place. Yet even then there appeared some symptoms of improvement; for some of the prisoners had within the last two years been set to work in polishing plate-glasses, whilst a mill was then erecting for grinding corn, which was to be worked by sixteen men at a time.

In the years 1814 and 1815, the prisons of Paris were visited by the Hon. Henry Grey Bennet, from whose information, as given before the Committee of the House of Commons, of which he was chairman, we learn that “though little advance has been made in France towards a penitentiary system, yet that the greatest pains seem every where to be taken to keep the

* *Brown's Life of Howard*, p. 348.

prisoners in a state of active and useful labour; and that under proper restrictions and regulations, there seems to be no trade that cannot with safety be received within the walls of a prison.”—“That in the prison of *St. Pelagie*, where persons are confined for small offences, not *condamnés aux fers*, the imprisonment is for various terms, none above ten years.” “There were three hundred and fifty criminals, varying from all ages, from ten years old to sixty. A general system of work is introduced; there was hardly any one idle; work is found by manufacturers in Paris, and a person is in each workshop, to watch over and instruct the workmen. The trades at work were—*stocking-makers, tailors, shoe-makers, button-makers, cardings, cotton-spinning and carding, carpenters, goldsmiths, and jewellers*. Of the earnings, one-third goes for their food; one-third forms a purse given to them at their discharge; and one-third every fourth day or week for pocket-money. They work from eight in the morning, in winter, to eight at night, with two hours of interval for dinner and exercise, from eleven to one; and from five in the morning in summer to seven in the evening.” “No irons used except for refractory prisoners. Ordinary punishment, solitary confinement in a cell for two or three days. No one allowed to be struck. The friends of the prisoners can visit them twice a week

by an order from the police." The regulations seem upon the whole to be good; food sufficient; and a visiting magistrate daily goes round to hear all complaints.

In the *St. Lazare* there were eight hundred and eighty women under sentence. "The common crime was domestic theft, and the majority of the prisoners, servants in Paris." "The system of correctional police seems to be good. In twenty years, about twelve hundred have been discharged, out of whom about two hundred have again been confined; and many persons who have been there, are now living rich and respectable at Paris. The prison is inspected daily. Mass is performed once a week, on Sundays. No prayers on week days. No religious or moral instruction whatever. A general system of labour prevails throughout the prison. From one hundred to one hundred and thirty in each work-room, under one inspector. *Needle-work, spinning, winding, shawl-making, and embroidery.* Their earnings are divided into three parts. One for the government, one for the purse to be given them on their discharge, which sometimes amounts to three or four hundred francs, and one payable to them every fifteen days. The directors of the house make their arrangements with the contractors for the work. It is done at a cheaper rate than by free labour. The pri-

soners were well dressed in prison dresses; neat and comfortable. The fault of the establishment appeared to be in the numbers; a want of classification; and consequently the penitentiary system was not as effective as it ought to be.

In the *Bicêtre*, six hundred and eighty-two persons of all descriptions were confined, four hundred of whom were at work in different trades. Some earned as high as thirty or forty sous a day. The earnings were divided in thirds, as before mentioned. No irons used, but the prison was in general dirty and offensive.*—The chief defects in these establishments, in many respects so creditable to the country, seem to be the want of separate sleeping rooms, and an inattention to cleanliness—circumstances of the most indispensable importance to the health and improvement of the prisoners, and to the success of any Penitentiary.

To the above information, extracted from the more ample accounts given by Mr. Bennet, I am enabled to add the purport of an *Ordonnance* of the King in 1814, by which it is directed, that all prisoners sentenced by the tribunals, and under twenty years of age, shall be taken from

* See *Second Report of Police Committee*, p. 801, &c.

the prisons of the capital and neighbouring departments, and placed in a separate place of confinement, under a director-general, who shall regulate the police, labour, instruction, and administration of the prison; and who shall present for the approbation of the Minister of the Interior an associate and six inspectors, who *can only be expected to undertake such an office through humane and liberal motives*, and whose services will therefore be *gratuitous*.— Provision is also made for a regular visitation and inspection of the prison, and for the verification of the accounts; and a power is particularly reserved for granting pardon, *before the expiration of the sentence*, to such of the prisoners, the propriety of whose conduct affords reason to believe in their amendment, and who can be liberated with safety to society, and with advantage to themselves. The execution of this decree is entrusted to the Duke de Rochefoucault and M. the Baron de Lessart; from which we may conclude, that nothing will be wanting for carrying it into full effect.*

* This *Ordonnance* is given in the Appendix, No. VII.

THE PENITENTIARY SYSTEM IN ENGLAND.

NOR is the idea of reforming criminals, by a system of discipline, new in this country. The establishment of Bridewells and Houses of Correction, at different periods, demonstrates that such plans have been considered by our ancestors as neither visionary nor impracticable.*

* By the 7 Ja. I. c. 4, rogues, vagabonds, idle and disorderly persons are to be committed to houses of correction and punished, "*by putting fetters or gives upon them, and by moderate whipping of them;*" and they are to have no allowance whatever, "*but such as they shall deserve by their own labour and work.*"

By a more reasonable statute (19 Cha. II. c. 4.) intitled, "*An Act for relief of poor prisoners, and setting them on work,*" it is observed, "*that there is not yet any sufficient provision made for the relief and setting on work, of poor and needy persons, committed to the common gaol for felony and other misdemeanours, who many times perish before their trial; and the poor there living idly and unemployed, become debauched, and come forth instructed in the practice of thievery and lewdness.*" It is therefore directed, that the justices may provide a stock of materials, and pay and provide fit persons to oversee and set the prisoners on work, and make orders for punishment of neglect, and other abuses; and for bestowing of the profit arising by the labour of the prisoners for their relief.

These objects are more fully provided for by the 22 Geo. III.

If it be asked, why these establishments have not succeeded, it may be answered, because *labour* has been enforced as a *punishment*, and not encouraged as the means of *amendment*; because the directors of them have, by stripes and severity, compelled the *hands* to work, but they have hardened the disposition, and rendered the criminal more unwilling to engage in any useful occupation than he was before. Accordingly, such establishments are now justly regarded, not as places of *reformation*, but of *punishment*; and although they have of late attracted considerable notice, and are in many places much better regulated than formerly, yet, upon the whole, they may be considered as tending to increase, rather than diminish, the general depravity of manners, and as unworthy the character of a great and enlightened country.

Towards the end of the last century, a more effectual attempt was made. The beneficent labours of Mr. Howard had opened to his countrymen the dreadful state of the prisons, and had represented the miseries, which,

c. 64.—24 Geo. III. c. 54.—and 31 Geo. III. c. 46.—containing many judicious and humane directions; which, if they had been duly carried into execution, would, in a great degree, have obviated the complaints so justly made of the inefficacy and injurious effects of these establishments.

under a mistaken idea of justice, were inflicted on their unfortunate though guilty inmates. In his journeys to the continent, he had paid particular attention to the good effects produced by the habits of industry and regularity, inculcated on criminals, in the different places through which he passed; and he had imbibed a thorough conviction, that the introduction of a similar plan into this country, would be productive of the greatest utility. At the same time, other circumstances seemed favourable to the promotion of his design. Sir William Blackstone had published his celebrated Commentaries, by which he had demonstrated, that the general spirit of the Law of England is not cruel and oppressive, but mild and merciful; and Mr. Eden, afterwards Lord Auckland, gave to the world his treatise on penal Law,—a work that must always rank amongst the most valuable productions of the kind.

It is truly remarkable, that these three distinguished individuals, who, of all men living, were, perhaps, the best qualified to judge on such a subject, were so strongly impressed with the practicability of a more humane and effectual system, that they earnestly united in promoting this object; and in consequence of their exertions, an act passed the legislature, in the year 1779, for establishing *Penitentiary Houses* near the Metropolis; the great objects of which were, “to

seclude the criminals from their former associates; to separate those of whom hopes might be entertained, from those who were desperate; to teach them useful trades; to accustom them to habits of industry; to give them religious instruction, and to provide them with a recommendation to the world, and the means of obtaining an honest livelihood after the expiration of the term of their punishment." In the opinion of Sir William Blackstone, "It was a system which united in itself so many advantages, and held out so flattering a prospect of success, that, if properly executed, there was reason to hope that such a reformation might be effected in the lower classes of mankind, and such a gradual scale of punishment be affixed to all gradations of guilt, as might in time supersede the necessity of capital punishments, except for very atrocious crimes." The sentiments of Mr. Howard, though more cautiously expressed, are not less favourable to the expediency of such an attempt. "A proper plan," says he, "for the government of penitentiary houses is of great importance, and is more practicable than some suspect. I am aware, indeed, of the difficulty of accomplishing so arduous an undertaking as that of reforming criminals, and inuring them to habits of industry; yet, when it is for the public good, we ought to make experiments; and, indeed, what have I been do-

ing in collecting the regulations of some of the best directed houses of correction in Europe, and such as experience has *proved* to be *practicable*, but endeavouring to facilitate the execution of this useful design?*

On the passing this act, Mr. Howard was considered as one of the most suitable persons to be intrusted with the direction of these establishments; and he was accordingly appointed, in conjunction with his friend, the late Dr. Fothergill, and Mr. Whatley, a commissioner for superintending and directing the buildings, and carrying the intentions of the legislature into effect.†

* *Account of Lazarettos*, p. 226.

† His motives for entering on this undertaking are thus stated: "I wish that no persons might suffer capitally, but for murder,—for setting houses on fire,—and for house-breaking, attended with acts of cruelty. Our present laws are certainly too sanguinary, and are therefore ill executed; which last circumstance, by encouraging offenders to hope that they may escape punishment, even after conviction, greatly tends to increase the number of crimes. Yet many are brought to a premature end, who might have been made useful to the state. Indeed, I the more earnestly embarked in the scheme of erecting *penitentiary houses*, from seeing cart-loads of our fellow-creatures carried to execution; "though the generous nature of our countrymen rarely permits them to perpetrate acts of cruelty."—When at the same time I was fully persuaded that many of those unhappy wretches, by regular, steady discipline in a penitentiary house, would have been rendered useful members of society; and above all, from the pleasing hope, that

It appears, however, from an account which he has left of this transaction in his work on Lazarettos, that a difference of opinion arose amongst those who were to decide on the situation of the building, which Mr. Howard and Dr. Fothergill contended should be placed at Islington, whilst others preferred Limehouse; in consequence of which, and of the death of Dr. Fothergill, Mr. Howard was induced, after nearly two years useless labour, to resign his office; which he signified by a letter to Lord Bathurst, in *January, 1781*.

By this result, not only was the country deprived of the services of Mr. Howard, in a department in which he was much more conversant than any other person in the kingdom,* but the design was frustrated altogether; and the subject seems to have lain dormant till the

such a plan might be the means of promoting the salvation of some individuals; of which every instance is, according to the unerring word of truth, a more important object than the *gaining of the whole world*."—*Account of Lazarettos*, p. 221.

* Mr. Howard has summed up his experience in the following decisive words, which demonstrate that he considered the reformation of offenders as attainable *only* by a total change in the system of discipline. "We have too much adopted the Gothic mode of correction, *vis.* by *rigorous severity*, which often hardens the heart; while many foreigners pursue the more *rational* plan of *softening* the mind, in order to its amendment."—*Lazarettos*, p. 226.

year 1794, when another act was passed for the same object, and with a similar failure of success.

These acts not having been carried into effect, Sir Samuel Romilly, in the year 1810, brought the subject again before the House of Commons; and after a very full and convincing explanation of the hardships and defects of the present system, he moved for leave to bring in a bill for carrying into execution the act of the 34th year of the present king; but although this motion was warmly supported by several of the most enlightened members of the House, and expressly approved by some of the administration, yet it was lost on a division by a majority of 69 against 52.

In consequence, however, of these exertions, and by the assistance of other active and benevolent persons, great improvements have taken place, and are still proceeding with respect to the discipline of our prisons; and a Penitentiary upon a plan suggested by Mr. Bentham, has been erected at Milbank, in the vicinity of the Metropolis, where an effort is now making to introduce such a system of industry, and such an improved mode of treatment of criminals, as it is hoped, will eventually demonstrate the expediency of the plan, and lead the way to its general adoption. Of this establishment a very full account is given in the valuable work of

Mr. Buxton; who has repeatedly inspected it, and whose very judicious observations will doubtless obtain that attention, as well from the managers, as from the public at large, to which they are so eminently entitled.*

The difficulties, which for a long course of years attended the plan for sending our convicts to New South Wales, gave rise to the Convict Establishments at Woolwich, Sheerness, and Portsmouth; where great numbers of criminals were crowded together to await the hour of their deportation, under circumstances of the most afflicting nature: many, who had been sentenced to transportation, having passed the whole period of their punishment in a state of wretched and useless imprisonment at home. Such was then the condition of these establishments, that they were

* The last Report of the Directors of the Milbank Penitentiary to the House of Commons, is given in the Appendix, No. VIII. From which there is too much reason to apprehend that the original error in forming the establishment at so enormous an expense, (said to amount to nearly 400,000*l.*), has extended also to the management; as it appears that the maintenance of each criminal costs upwards of 40*l.* per annum, and that the earnings amount only to about one *tenth* part of that sum. It must, however, be observed, that this institution is yet in its infancy, and that no fair inference can be drawn from the present profits of the labour of the prisoners, as to what may be produced when habits of industry are formed, and they are furnished with regular employment.

pronounced in the House of Commons, by one of the best and greatest men that ever entered its walls,* to be a *hot-bed of vice and wickedness*. The change which has since taken place in this respect, is, however, an additional instance of the happy consequences which, in the course of Providence, have sometimes arisen from the most unfavourable and hopeless circumstances. By the most commendable attention on the part of government; by the appointment of proper officers; by a regulated system of labour; by the establishment of schools, both for adults and young; and by the influence of moral and religious instruction;—such an alteration has of late years taken place, as may, perhaps, furnish one of *the strongest arguments that can possibly be adduced*, for the extension and *universal adoption* of the Penitentiary System. From the representation of the Superintendent of the convict establishments laid before the House of Commons in February last, it appears, “*that notwithstanding the number of prisoners, which have of late been received on board the convict ships, has exceeded all former times, (consisting of rather more than one thousand), they have been both orderly in their conduct on board, and when on shore at labour.*”—The Reports of the respective chaplains are

* The late Mr. Whitbread.

also highly creditable to the good conduct and improvement of the prisoners. They are stated to be, *“with remarkably few exceptions, respectful to their chaplain, and obedient to their officers; orderly in their wards, diligent in the school, attending to the reading of evening prayers with praiseworthy decorum, and joining in the public Chapel service with the utmost solemnity; and as far as external behaviour and earnest professions can be relied on, a considerable number may be declared to have been brought to see the error of their ways, and to be desirous of following the rules of virtue and religion during the remainder of their lives.”*—*“The school has afforded to many, such facilities for bettering their condition on their return to society, as they never before knew how to obtain or to appreciate.”* *“The Holy Scriptures are daily read by them in general; and five and twenty chapters of them are, on an average, recited, memoriter, in the chapel, every week. Once a month, about one hundred and thirty of the prisoners say the Church Catechism. Once a month, about five and twenty of them repeat, memoriter, the Thirty-nine Articles of religion. Once a week, we generally have a Homily, and sometimes two or three, repeated memoriter. Should it be asked, what benefit is likely to result from this practice; my reply is, in case any of them are restored to society, they will not so easily be led*

*astray by every wind of doctrine. Out of the four hundred and eighteen prisoners, (in the Bellerophon), two hundred and sixty attend regularly the evening school. The school has been the most happy institution that was ever introduced amongst the convicts. Their minds are usefully occupied. In proportion as they acquire scriptural knowledge, the more easy do I find it to preach to their understanding and feelings, and make them sensible of their duties to God and man." "Another practical proof of growing Christian principles amongst them, I must not omit to mention: a fund is raised, by those who can afford to give a little, to assist those who may be penniless, when they are somewhat indisposed, but not so ill as to be placed upon the sick list. This fund is also intended to encourage virtue. On the whole, our men, in general, are at this time examples worthy to be imitated by many in a dissimilar situation."**

Notwithstanding the very favourable tenor of these representations, we may perhaps be allowed to doubt, whether the practice of inducing the convicts to repeat, by heart, long compositions, particularly such as relate chiefly to *doctrinal points*, be the most suitable em-

* The reader will find these truly interesting Reports at length, in the Appendix, No. IX.

ployment for their faculties. In anticipation to objections of this kind, it is observed by the chaplain of the Bellerophon, "*that it employs men's minds; so that they have less time to corrupt and harden each other in sin.*" But surely, this is only to derive a negative advantage, where we ought to expect positive improvement. The task of reforming a criminal resembles, in a great degree, that of rearing an infant, in which the simplest nutriment alone should be employed. Whatever is more than can be digested is either useless or pernicious.* The most suitable, and at the same time, the most authoritative instructions for this purpose, may be found in the moral precepts of the New Testament; instructions actually delivered by the founder of the Christian religion, to those who were in a similar situation with the objects of our present inquiry. That these precepts may be so arranged as to form a concise and beautiful system of moral and religious discipline, will be denied by no one who has ever examined them with a view to such arrangement. It can be no presumption to say, that *to commit to memory*

* Thus St. Paul addressed the Corinthians, "And I, brethren, could not speak unto you as unto spiritual, but as unto carnal; even as unto babes in Christ. I have fed you with milk and not with meat, for hitherto ye were not able to bear it."—1 Cor. iii. 1, 2.

these divine rules of conduct, so simple, so energetic, so intelligible, so convincing, would be preferable to devoting the same attention to any composition of mere human authority, however excellent it may be.*

In no part of the kingdom is it of greater importance that the Penitentiary System should be fully introduced, than into the populous and industrious County of Lancaster; where the increase of crimes has of late been truly alarming, and the expenses of prosecuting and convicting offenders has arisen to an enormous amount. For many years past, the county gaol of the Castle of Lancaster, has been regarded as one of the best governed in the kingdom; and from the subjoined statement it appears, that some of the criminals are em-

* Since writing the above, I have, by the kindness of a friend, procured a copy of a little work, which precisely answers this description, and ought to be put into the hands of all persons in the situation here referred to. It is intitled, "*A Concise Manual of the Principles and Duty of a Christian, collected from the Scriptures, and arranged under proper heads, after the manner of Gastrell's Institutes. By the Rev. John Maule, A. M. Rector of Horse Heath, in Cambridgeshire, and Chaplain of Greenwich Hospital. Compiled, (chiefly), for the use of the Hospital, and his own Parishioners, 12mo. Rivingtons, 1810.*" The extracts from the Scriptures are given without any comment whatever.

ployed in labour;* but, from the small amount of the earnings, it seems probable that much more might be effected, if the system of labour were more fully introduced. It must, however, be recollected, that the Castle of Lancaster is a gaol, and not a Penitentiary; that a great proportion of the prisoners are persons committed for trial, who cannot be considered as proper objects of penitentiary discipline; and that convicts, when sentenced to imprisonment, are generally sent to the County House of Correction at Preston; where such a course of management has of late been introduced, as clearly demonstrates the beneficial effects derived from the substitution of *voluntary*, for

| | £. | s. | d. |
|---|----------|----|-----|
| * In the year 1817, there was paid by the County of Lancaster, for the prosecution of | | | |
| 1677 felons | 17,956 | 6 | 9 |
| For conducting the offenders to prison . . | 5,624 | 15 | 10 |
| For maintenance of prisoners in gaol . . | 5,152 | 4 | 0 |
| | <hr/> | | |
| | 28,733 | 6 | 7 |
| Towards which the earnings of the prisoners amounted to | 332 | 13 | 10 |
| | <hr/> | | |
| | £ 28,400 | 12 | 9 |
| <hr/> | | | |
| The general County Expenditure during the same period, including the above, amounted to | 40,533 | 2 | 10½ |

compulsory labour. The convicts here have a proportion of the profits obtained by their industry, paid to them in such a manner as to afford a proper stimulus to their exertions. Many of the employments and offices, in the care and management of the House, which were before performed by the hired labour of individuals paid at the public expense, are now performed by the prisoners themselves; who thus not only contribute to, and in some cases, more than compensate for their own support, but are trained up to habits of order and decency.*

The gaol at Liverpool has been erected about thirty years. Mr. Howard saw it in its progress in the year 1787, and expressed his opinion, that "*with a view to security, health, reformation, and convenience, it would be one of the first borough gaols in the kingdom.*"

It is inclosed with a stone wall, twenty-one feet high, and consists of six wings, all converging, in a semicircle, towards the chapel and the governor's house.

Of these wings, three only are at present occupied for the purposes of the borough. In these are confined prisoners for debt, sued by process in the Borough Court, persons fined under the Dock Police Acts, and such delin-

* See the Statement for the year, ending at Easter, 1818, in the Appendix, No. X.

quents as the Borough magistrates think proper to commit.

The other three wings are now let by the Corporation to the County, as a House of Correction; and, at present, contain 343 prisoners, of whom 84 are females; all of whom are now employed in various kinds of work, under a regulated system of labour, as directed by the magistrates, and carried into execution by Mr. Thomas Amos, the present governor. This plan commenced in June, 1817, since which it has been carried on with an increasing prospect of utility. The employments for the males are *weaving, winding cotton, coopers' work, tailors, shoe-makers, clog-makers, &c.* For some of these, new work-shops were requisite, which have been erected by the prisoners, as *bricklayers, joiners, &c.* The women are employed in *knitting, sewing, picking cotton, &c.* in making *slops*, or cloathing for seamen, and for exportation to the colonies. Their own cloathing (except woollens) is also manufactured in the house. Children are first instructed in spinning and winding, and are afterwards put to the looms or other kinds of labour.

The criminal is allowed *one-fourth* of his earnings for his own use; half of this is paid him *weekly*, the other half is reserved till his discharge. Till this plan of a small *weekly* payment was adopted, an inducement was evi-

dently wanting; but this produced a striking effect.

A Chaplain is appointed, who performs the church service every Sunday, and reads prayers once in the week days.

The occupation of this building by the county is, however, only of a temporary nature; a House of Correction or Penitentiary, upon a still larger scale, having been commenced, and being now in great forwardness, in the township of Kirkdale, within two miles of Liverpool. This building will, when finished, consist of two half segments of an ellipsis, placed at a considerable distance from each other, but united at the ends by ranges of building, one side of which will form the Sessions House for this part of the county; the other, the Governor's House and other accommodations. The Chapel will be placed in the centre. This building is so constructed, as to afford every convenience for the proper classification of offenders. There will be a separate cell for every criminal by night, and a work-shop where he will be employed, either alone or with others, according to the nature of his business, by day. The work-shops will be erected on the outside of the two elliptical segments, leaving a sufficient passage between. The building is placed near a healthy village, in an elevated situation, and will afford every accom-

modation for carrying the penitentiary system into full effect; and from the encouragement already given, and the constant attention paid by the county magistrates, seconded by the judicious, firm, and conciliating measures adopted by the governor, there is every reason to hope that when the opportunities of improvement and reformation shall be increased by the additional conveniences of the new building, this establishment will vie with any in the kingdom.

In the mean time, an earnest and highly commendable attempt is now making, to combine with the habits of order and industry amongst the female convicts at Liverpool, a regular plan of intellectual and moral instruction. For this purpose a number of ladies, of the Society of Friends, have associated together, and have undertaken to instruct these unfortunate women in useful occupations, and to superintend and direct their labours; thereby rendering what was considered as their punishment, the means of their reformation and future welfare. This idea was suggested by the success of the beneficent efforts of Mrs. Fry, in reclaiming the prisoners in Newgate. On her recent visit to Liverpool, she found many persons who, from similar motives, had followed her generous and enlightened example, and had constituted a committee, and applied to the magistrates for their encouragement and support. By her as-

sistance and advice, the assent of the magistrates was obtained; and a matron was appointed to carry into effect the directions of the committee. The convicts entered into the plan not only with willingness, but with cheerfulness. They chose monitors from amongst themselves to regulate their proceedings. The inactivity and disorder incident to a gaol, have been effectually banished; and the whole now presents a scene of peaceful industry, where their labours are relieved by reading select portions of scripture, or by intervals of necessary refreshment and repose.

Although not immediately connected with the present subject, I cannot dismiss this brief account of the state of the gaol at Liverpool, without also noticing a plan, which has been adopted there for some years past, for preventing the confinement of debtors by unjust arrests; and which from the advantageous effects derived from it, may deserve to be recommended for adoption in other places.

Amongst other modes of testifying the public joy in Liverpool, on the completion of the fiftieth year of His Majesty's reign, it was resolved, at a public meeting of the inhabitants, that a subscription should be entered into for liberating all the debtors confined in the Borough gaol. This was accordingly done, and on the day of Jubilee the prisoners were brought

up before the town-hall and discharged, amidst the acclamations of their townsmen. After this object was accomplished, it appeared that a surplus of the subscription remained in the hands of the committee, which it was determined should be invested, and form a fund for the defence of such persons, as might on enquiry appear to have been arrested and committed to gaol without just cause, and who had not the means of providing for their own defence. A measure of this kind was highly necessary in this large commercial place, where seamen, and particularly foreigners, were continually subjected to unjust arrests, and having no friends to whom they could apply, had no alternative but either to remain in gaol, or proceed to sea, on any terms that their perjured oppressors might prescribe. The judicious application of this small fund, in enabling the prisoner to enter upon his defence, with the commendable exertions of the secretaries, has put an effectual end to this abominable system; and notwithstanding the great increase of trade, there are now fewer debtors in gaol than there were when the liberation took place in 1810.*

* The nature of this institution will more fully appear from the Reports in the Appendix, No. XI.

ON THE DISCIPLINE OF A PENITENTIARY.

ONE of the most important improvements that has hitherto been suggested in *prison discipline*, is that of the committee of the House of Commons, appointed, in the last session of parliament, to examine into the state of the prisons in the metropolis; by which they propose a *classification of prisons*, instead of *prisoners*; in consequence of which, the several places of confinement in the metropolis, instead of being filled, as they are at present, with promiscuous prisoners of every description, would each be appropriated to a *distinct class*; so that *debtors, persons untried, misdemeanants, and felons*, may each be confined in separate places, and subjected to such regulations as the case requires. “*In this way*,” they observe, “*great additional accommodation would be afforded in each prison; and a mode of discipline might be adopted, suited to the condition of each class and description of offenders. The rules of rigour that are proper for convicted criminals, are surely improper to be applied to the untried; and the fine for a misdemeanour, cannot, in justice, be subject to the same severity of discipline*

which is applied to the correction of the felon."

Upon the same principle, it must be obvious to any one who considers the subject, that a Penitentiary is not a fit place of confinement for persons *untried*, and who are detained merely for safe custody; it being as yet undecided whether such persons be guilty or not; so that it would be, at least, premature, if not unjust, to subject them to a course of discipline, under the idea of effecting their reformation.

In the next place, it must be apparent, that when a person has been received into a Penitentiary, and has gone through the discipline of the place, and been discharged, as *reformed*, such a person ought not to be again received upon the commission of a new offence; because the process having been *tried*, and failed of its effect, a repetition of it can only be expected to be attended with *a similar result*; and consequently it becomes necessary, in that instance, to resort to a *different* mode of treatment.

Again, there may, in the opinion of many persons, and perhaps in the general estimation, be some crimes of such a character, either from their atrocity or their nature, as to render the delinquent *an unfit object of admission* into such an establishment; the perpetrators of which crimes must, therefore, be left to the punishments which the law has provided for

them. And, on the other hand, there will always be a great class of *minor* offenders, who although the proper objects of *correction*, would, perhaps, be thought to be too severely visited by a sentence of imprisonment, for a period of *sufficient duration*, to admit of the discipline of a Penitentiary being attended by the desired effect.

Thus, then, it appears that the proper objects of a Penitentiary are only such persons, as have by their offences, subjected themselves to the operation of the law, and of whose reform a reasonable expectation may be entertained. *A Penitentiary* is not, therefore, a *gaol*; nor can it be combined, or perhaps united in the same building with a *gaol*, without its expected benefits being greatly diminished, if not wholly frustrated. It may rather be considered as a recurrence to our ancient establishment of a house of correction, with this most essential difference, that instead of *punishing* the criminal according to the supposed enormity of his offence, by *stripes and severity*, as was formerly the case, it professes, by measures more consistent with humane feelings and Christian principles, to *reclaim and restore him again to society*. Persons committed *for life*, or for long and irredeemable terms of years, are, therefore, no proper objects of a Penitentiary; as they would occupy a permanent sta-

tion, and deprive it of a certain proportion of its utility; which is increased according to the number of persons to whom it can extend its benefits. A Penitentiary is, in short, in the community, what the lungs are in the human body, an organ for purifying the circulation, and returning it, in a healthy state, to perform its office in the general mass.*

In a Penitentiary the buildings should be so constructed, as to admit of *a separate room* for *each criminal*, in which he should be confined *alone* by night. A solitary confinement, to this extent, seems necessary to produce any beneficial effect on the habits and character of criminals; not only as it prevents their associating with, and corrupting each other, but as it affords leisure for that reflection, which, in such a situation, will sooner or later force itself on the most hardened mind. It is observed in the Report of the Commissioners for the State of

* I hope I may be allowed, without the charge of presumption, to differ from the opinion of Mr. Howard, that "none should be committed to these houses, but *old hardened offenders*; and those who have, as the laws now stand, *forfeited their lives*, by robbery, housebreaking, or similar crimes; or, in short, criminals who are to be confined for *a long term*, or *for life*."—*Lazarettos*, 221. As I cannot but think that *the sooner* any person is checked in the career of wickedness, the more easy will it be found to bring him to a due sense of his misconduct.

Massachusetts, that "from the experience of *this institution*, (referring to the State Prison of *Philadelphia*) and that at *New-York*, it will appear, that constant employment, and the usual means of instruction in morality and religion, are *ineffectual* for the reformation of criminals, (the great object of penitentiary establishments) unless they are debarred from *all intercourse*. The natural effect of a state of society amongst them is so obviously to counteract the penitentiary discipline, and to cherish the corrupt dispositions which form the bond of union, and the basis of all sympathy, among this class of men, that the establishment which admits of this indulgence may, with strict propriety, be called a *school of vice*."

It may further be observed, that much will also depend on the institution being provided with convenient work-rooms, where, under proper inspection, the prisoners may pursue their avocations; which will be done with much greater spirit and advantage, when a reasonable number are together, than when separately employed. Continual seclusion, *both by night and day*, will not only damp all exertion, but will produce the most unfavourable consequences, both on the mind and body. In order that any improvement should take place, either in the intellectual or moral character, an intercourse

with society is indispensably necessary. Emulation will thus be promoted, obedience and civility enforced, good dispositions encouraged; nor would it be possible by any other means to ascertain *what* degree of improvement had taken place, or *when* it might be advisable to recommend a prisoner as a proper object for pardon.

A sufficient extent of ground should also be provided for air and exercise, and *a reasonable relaxation from labour should be allowed*. The object is to inspire a spirit of industry and love of active employment, which will be more effectually done, by its being rendered *voluntary*, than by being severely and unremittingly enforced. It is to no purpose, that a certain *quantity* of work is performed, unless the *mind* of the prisoner can be impressed with a due conviction of the advantages he will derive from *continuing* in a course of industry after he may have obtained his discharge. Opportunities will also thus be afforded, of shewing additional indulgences to such as distinguish themselves by their good conduct; but air and exercise are requisite to all, and will be found the best and cheapest preservative against the introduction of disease.

To the purpose of penitentiary establishments, many of the existing laws, as enforced

by several acts of parliament, seem well adapted; and if these enactments were strictly carried into execution, there would, perhaps, on this head be little room for improvement; but, although the magistrates in many parts of the kingdom perform their arduous duties with exemplary diligence, yet, it is but too true, that in other places great neglect is observable; and even where due attention is paid, such a difference of opinion subsists respecting the proper treatment of criminals, as gives rise to every extreme of diversity, from *security, order, health, and cleanliness*, in some places, to the utmost degree of *danger, filth, and wretchedness* in others.* There is, however, good reason to expect, that this *inequality of treatment*, for persons guilty of *similar offences*, will not be much longer tolerated; and that government, in requiring a statement to be returned of the condition of *every prison*, has it already in view to adopt measures for placing them on *an uniform and proper footing*, and for enforcing the regulations which the legislature have so wisely and humanely, though hitherto so ineffectually, provided. This, it may be hoped, will ere long be followed by some great national measure,

* See *Mr. Burton's Inquiry*, p. 68, 69, 2nd Edit.

by which the penitentiary system will be established throughout the kingdom, with every advantage that can be derived from the experience and consideration of what has already been effected, not only in our own, but in other countries.

It is also a favourable circumstance, that the change proposed to be adopted in the *treatment of criminals*, may in a great degree be accomplished without *an entire change* in the system of our criminal law; the powers exercised by the administrators of justice, either at our assizes or sessions, being, in most cases, sufficient for the purpose. Instead of subjecting the culprit to a *corporal punishment*, or to a *short and useless confinement*, it will be requisite that he should be committed to a house of industry for such a term as may be sufficient to afford a *reasonable prospect* of his reformation. In fact the nature of this kind of sentence will be entirely changed. Heretofore imprisonment has been at once the greatest of injuries and the severest of punishments; the *measure* of pain inflicted was therefore properly estimated by the *time* of its duration; but under the system of kindness and instruction the case is reversed; and the voice of humanity will call upon our judges and justices of the peace to commit offenders, and especially those of early

years, for such terms as may afford a probability of their thorough and permanent reformation.*

The nature and extent of the evils now existing, and the possibility of their being effectually remedied, have already been admirably explained to the public in the Report of the Committee of the *Society for the improvement of prison discipline, and for the reformation of juvenile offenders*, published in May last. But as the task which that society has undertaken, of contributing to the prevention of crime, and to the intellectual and moral improvement of this most neglected and unhappy portion of our species, must necessarily be of a local nature, and will be found sufficiently laborious, though confined within the limits of the metropolis, it will be requisite that Societies, upon a similar plan, should be formed in other parts of the kingdom, "*for the purpose*," as the Committee

* In the Act for establishing Penitentiaries near London, it was directed that convicts should be committed, some for one year, some two years. On which Mr. Howard remarks, "*Such criminals seem more proper for the county houses of correction; for is it possible to think of any reformation in a convict's behaviour, that is likely to prove lasting in the compass of a year? I could wish to have all such as are not to remain in a Penitentiary five years at least, disposed of in some other manner.*" As an absolute rule, this is perhaps too long a term, and in some cases might admit of modification.

have expressed it, "*of carrying into execution the excellent laws at present in force, and of adopting additional measures, which though not specially enacted by the letter of those laws, are yet entirely consonant with their spirit, and calculated to assist their beneficial operation.*"

It is indeed evident, that legislative regulations alone will not be sufficient to accomplish the improvements proposed; and that the success of these institutions, especially in their commencement, must chiefly depend on the vigilance, care, and attention of those benevolent and enlightened individuals, who may be enabled to devote *a portion of their time* to so meritorious a work. That their labour will be attended with no pecuniary compensation, will form no objection, in a country which has already numerous institutions where the same circumstance occurs.* The male and female convicts should be each under the inspection of *a separate Committee*, to consist of persons of their own sex. The regular offices of religion should be duly performed at stated periods, by

* "Mr. Howard uniformly found those houses best managed, when the inspection was undertaken *without mercenary views*, and solely from a *sense of duty* and a *love to humanity*. So reputable is this humane task in Germany, that at Frankfurt the house of correction is inspected by the ladies."

Howard's Account of Prisons, 128. *Lazarett*. 71.

its proper ministers ; but much more than this will be requisite, if it be expected to produce a radical and substantial reform. A frequent and even friendly intercourse must take place between the members of the committee and the prisoners, and no opportunity must be lost of improving every symptom of amendment, and inculcating better sentiments and dispositions. The character of each individual must be thoroughly known, the causes of his errors and his vices discovered, and his evil propensities, as far as possible, eradicated. He must be instructed to see his own true interest, and directed, and even assisted, in the attainment of it. These essential and truly Christian services can only be rendered by the joint labours of *a considerable number of individuals*, who being united in a common cause, and acting upon a defined and uniform system, will be enabled, without any unreasonable claim upon the time of any one, to carry their great and benevolent plan into complete effect.

Independent of the important duties above stated, it will also be the business of committees thus formed to point out or procure suitable employment, and direct the labours of the persons confined ; to assist in providing materials, and disposing of the articles manufactured ; to establish and regulate schools for the instruction as well of adults as of younger con-

victs; and as the terms of imprisonment of the convicts expire, to provide them with the means of labour, or to enable them to return to distant homes. These objects, it is evident, cannot be obtained *by any legislative regulations*, or the assistance of *any police establishment*, however extensive; but must remain as an opportunity for the exercise of those humane feelings and active virtues, which thus cultivated and cherished within the walls of a prison, will spread abroad and diffuse their fruits amongst society at large.

There is no circumstance that tends more to the improvement of all charitable institutions, and to the prevention of abuses, than publicity in their proceedings and expenditure, and *that* responsibility by which it is necessarily accompanied. Had this been the case with the numerous establishments founded by our ancestors for the purposes of *education*, they could not have degenerated into the wretched state in which many of them at present appear. But important as this circumstance is, it is much more important to observe, that *publicity* is the only effectual safeguard against those abuses and cruel practices, which only exist because they are transacted *in secret*. Had the enormities that were discovered by Mr. Howard, in some of the prisons on the continent, been sufficiently known, is it possible they could have

been tolerated for such a length of time? and was it not a very frequent and happy result of his just and fearless representations, that the abuses of which he complained were effectually reformed? * To no circumstance can the disgraceful condition of the gaols in the metropolis be attributed with greater justice, than to the negligence and misconduct of the magistracy in omitting to visit them, as by the injunctions of the legislature and the duties of their office they were enjoined to do; and the same circumstance has, in other parts of the kingdom, been productive of similar effects.

There is nothing which the indolent regard with so much horror as *hard labour*. When they observe a husbandman, with long and laborious efforts, turning the soil with his spade, or a carpenter shaping a piece of timber with his axe, they are ready to conclude that nothing can be more dull, more irksome, or more wearisome. They little suspect the pleasure continually springing in the mind of the workman from the variety and contrivance with which every stroke is made; from the success with which it is attended; from the consciousness of the power and activity thus employed;

* See a very full and most interesting account of his interview with the Emperor of Germany, and the effects produced by his representations to that monarch on the state of his prisons, in Mr. Brown's *Life of Howard*, p. 503, &c.

and from the exhilarating survey of the task accomplished.

It may therefore perhaps be said, that to condemn a person to labour for a long course of years, or for life, is not so severe a punishment as it may, at first sight, appear; but this would be too hasty a conclusion. The question will depend upon the circumstances and situation in which such labour is to be performed.

In referring to the satisfaction that attends laborious employments, it must be evident, that the pleasure which arises from successful exertion, is founded on that unalterable principle in human nature, which, under the name of *self-love*, connects our *duties* with our *enjoyments*. As long as this connexion is suffered to exist, human affairs proceed in their proper course—destroy it, and all further progress becomes not merely difficult,—it is impossible.

The reason is thus apparent, why all attempts to reform criminals by *compelling* them to labour by means of *stripes and violence*, have wholly failed of their intended effect.

It is not perhaps too much to say, that the *greatest cruelty* that can be exercised upon an individual, is to separate his *labour* from his *hope*; to compel him to strike a certain number of strokes, but to deprive him of the sentiment that should invigorate them.

Let the reader reflect upon this, and consider what is the curse of slavery !

Now as it is the great object of all penitentiary establishments to inspire a spirit of industry, and thereby at once to *correct the criminal disposition* and to *diminish the temptation to crime*, it is evident that the greatest attention ought to be paid to the means to be adopted for that purpose. And as the efforts of any individual will be in proportion to the incitement held out to him, so *the more powerful such incitements are*, the more likely will be the prospect of success ; whilst, on the contrary, the more the individual is deprived of the proceeds of his labour, the less exertion will he be likely to make ; and the probability of his ever attaining to a regular habit of industry will be proportionably destroyed.

Justice, humanity, the public interest, require that the exertions of a criminal in useful labour, so far from being deprived of any part of their *stimulus*, should receive every possible encouragement. Whatever he can obtain, should therefore be applied to *his own entire profit and advantage*. These profits should however be subject to certain deductions, of which the principal are, the expense of his *maintenance*, and a compensation for the amount of the *property*, of which he may unjustly have deprived another. The former of these he will perceive

is not only essential to his support, but reflects upon his character some degree of credit and independence. By the latter he is discharging himself, as far as circumstances admit, from the effects of his crime, and preparing the way for his restoration to society. Should he be enabled to earn *more* than sufficient for these purposes, such surplus should be *as sacred to his use*, as he should be taught to regard that of others to theirs.

In the management of the penitentiary establishments and houses of correction in this country, a great diversity of practice prevails with respect to the portion of the earnings allowed to the prisoners; insomuch that it is scarcely possible to point out any two of them that have adopted precisely the same method.

This is the more remarkable, as the proportion of the earnings payable to the prisoners is already prescribed by act of Parliament, and is much more liberal than the allowance which they usually obtain.—By the 22d Geo. III. c. 64, s. 7, *the keeper of every house of correction is directed to employ all such persons as shall be prisoners therein, and kept and maintained at the expense of the county, division, or district, wherein such house of correction is situate; in some work or labour which is not severe, although such prisoner was not by the warrant of his commitment ordered to be kept to labour; and every governor*

or keeper shall enter a separate account of the work done by every person under that description, and shall account with and pay to him, or her, one half of the net profits which he or she shall have earned at the time of his or her discharge, and not before."

Why this statute has not been complied with, can only be accounted for from that extraordinary apathy, by which almost every enactment, made by the legislature, for the protection and benefit of prisoners, has been suffered to remain a dead letter. Under the effect of this statute, *all prisoners* in houses of correction are not only compellable, as a matter of duty, but intitled, as a matter of right, to work; and the governor or keeper, is directed *so to employ them*:—again, that work is *not to be severe*; but such as is suited to their age and ability; and lastly, they have *an interest* in a *moiety* of their earnings, which is *vested in them* as their actual property, transmissible to their relatives in case of death, and payable to them at their discharge in case they survive.

Liberal, however, as this provision is, and humane as the terms are by which it is accompanied, it may still be doubted whether this is the best mode that might be devised for regulating the appropriation of a convict's earnings; as in case such earnings should prove insufficient to pay the expense of the prisoner's main-

tenance, *one half* seems too much to be applied to his own use ; whilst on the other hand, if his gains be such as to pay more than the expense of his support, there seems to be no just cause why he should not be intitled to *the whole* of his earnings *above that amount*. For this reason, it would, perhaps, be proper that a certain sum should from time to time be fixed on for the maintenance of each convict, by the magistrates, according to the rate of provisions ; which should be regularly charged to the debit of the prisoner's account. That on the other side he should be credited with the amount of his earnings, from which an allowance should be made him, not exceeding *one fourth*, till such time as they were adequate to the discharge of his maintenance, after which the *whole surplus* should be considered as *his own*. It would also be found a great additional inducement to a perseverance in industry, if *a moderate portion* of such surplus were paid over to such prisoner as it arose ; because the stimulus of a *present* advantage is much more powerful than of one which is *remote*.* At the same time it would be advisable to retain *a part* of such profits till his discharge, because, in proportion as it accumulated, it would not only become the best

* See the judicious remarks of Mr. Buxton on this subject, in his account of the Penitentiary at Milbank.

security for his good behaviour, but would stimulate him to further exertion.

The true test of the complete success of establishments of this nature would be, that they were no tax upon the community, but in point of expense should support themselves. It is observed by Mr. Howard, that "*however this may be in theory, in practice it is always found otherwise; the difference being great between involuntary labour, and that which is performed from choice;*" but as it is the object of a Penitentiary to remove the ground upon which this opinion is founded, by giving to the prisoner *a motive* for exertion, so as to render his labour *voluntary*, the authority to which it would otherwise be intitled, may be considered as invalidated.

It is also observed by Mr. Howard, that "*convicts are generally stout, robust, young men,*" who consequently stand in need only of proper control and direction to render them useful both to society and themselves. The prisoner in a Penitentiary is also prevented from expending his gains in dissipation, and is maintained at much less expense than he could maintain himself, if at liberty. In general, therefore, it may be presumed, that the convicts will each repay to the institution, the amount of their own support; but, as in every establishment there will be some who, through in-

ability, sickness, or other causes, will not be able to accomplish this object, the deficiency must necessarily fall on the public; because to charge this deficiency on the *surplus* profits of the more able or industrious convicts, would be a breach of that strict justice which cannot be too strongly inculcated on their minds.

It is on the same principle of a strict adherence to justice, that the prisoner should be compelled, as far as practicable, to make restitution to the prosecutor for his loss, and although this may in many instances fail of success, yet the attempt must be attended with beneficial consequences. The losses that may have arisen to individuals from such depredations, will thus be continually repairing, by the daily labours of those by whom they were occasioned; and if the apprehension of any punishment could deter an evil-disposed person from the perpetration of crimes, the idea that he might be compelled to a continued series of labour till he had restored the amount of his plunder, would produce on his mind the most striking effect.

Amongst other means of exciting a spirit of industry amongst criminals, the legislature had further provided, that if the visiting justices of such places, shall be informed of any extraordinary diligence or merit in any of the offenders, they shall report it to the judges, or justices, in

sessions ; who may, if they think proper, recommend such offender to the royal mercy ; and if his Majesty shall think proper to shorten the duration of such offender's confinement, such offender shall have necessary clothing given him, and a further bounty as prescribed by the act, (31 Geo. III. c. 46. s. 14). Hence it appears that the principle of liberating offenders upon their good behaviour, is already recognized ; and if the conduct of prisoners were diligently enquired into, and such as appeared deserving were recommended for discharge, a great progress would be made, not only in performing an act of justice to those who might be found entitled to it, but in stimulating other convicts to follow their example.

Although it would be fruitless to expect, that any plan for the proper regulation and employment of a Penitentiary, could be set on foot and established without the united labours of *many* benevolent individuals, yet it should be so constructed, that when once put in motion, it should be enabled to proceed, with such a moderate portion of attention and superintendence as might *with certainty* be obtained. For effecting this object, there seems to be no plan more desirable than the judicious introduction of a system of *subordination*, and *mutual instruction* ; by which the criminals should form a kind of *community*, and should become,

in fact, the *reformers of each other*; upon a plan similar to that now introduced with such striking effect in our infant schools. Such a system of *delegated inspection*, would not only be more *practicable* but more *effectual* than that of a *Panopticon*; where, from the peculiar construction of the building, every prisoner is *supposed* to be *at all times* under the *immediate eye* of a keeper; a plan which, however it might answer the purpose where labour was inflicted merely *as a punishment*, as in our former houses of correction, would, from the humiliating and degrading state in which it *uniformly* places *all* the prisoners, scarcely be compatible with the inculcation of those better feelings, and that spirit of improvement, which it is the great object of these establishments to inspire. The desire of superiority, and the hope of distinction, are amongst the chief causes that stimulate mankind to exertion; and whatever may be thought of the interior of a prison, these feelings will be found to be not less active in that little dominion than in the world at large. To provide gradations by which an individual can rise to estimation and importance by his good conduct, is to furnish him with a ladder by which he may ascend from the depths of disgrace and misery in which he is involved, and from which, by a single effort, he never could have hoped to extricate himself;

whilst the confidence which thus appears to be placed in him, will, in return, give rise to dispositions and feelings in his mind, that will be found a much better security for his good behaviour, than the utmost exertions of severity could ever obtain.

Upon the whole it seems indispensably necessary, in order that Penitentiary Establishments should succeed to their full extent, that the principle upon which they are founded should pervade, and be continually manifested through the whole establishment. That principle is *benevolence*, exerting itself in promoting the real and permanent welfare of the individuals there confined. Unless this object be fully understood and strictly adhered to, it will be in vain to expect any favourable result. The reformation of the criminal should be the *motive*, the *object*, and the *measure* of all our exertions. Every kind of corporal punishment should be strictly prohibited. Solitary confinement, in cases of extreme obstinacy, should alone be allowed; and this has always been found sufficient to subdue the most obdurate disposition. Every prisoner should be preserved, as far as possible, from contamination, by separate confinement at night, and by a diligent superintendence, whilst pursuing his avocations, whether alone or in company, by day. When he labours, it should be wholly for his own

profit, subject to such outgoings for his maintenance, and other just and reasonable objects, *as may be defined*. Independence of character, and ability to provide for himself, are amongst the chief objects of his attainment, and these can never be acquired, unless he be encouraged to *trust to his own efforts*, and incited to *feel his own interest*. Cleanliness of person should be most strongly recommended and rigidly enforced, not only as essential to health and comfort, but as conducive to *moral order, rectitude, and self-respect*. Every disposition to improvement should be encouraged by the expectation, that a diligent perseverance in industry, obedience, and propriety of conduct, will be rewarded by a diminution of the term of imprisonment. A strict attention to avoid all profane, indecent, and offensive expressions, is indispensably requisite, and even reserve, and silence, and quiet, will occasionally prove great restoratives.* but above all, every effort

* It was said by Mr. Howard, that the grand purpose of all civil policy relating to criminals is expressed in the inscription which he found in the hospital of *S. Michele*, at Rome, and which he therefore adopted as the motto for his work: *PARUM EST COERCERE IMPROBOS PENA, NISI PROBOS EFFICIAS DISCIPLINA*. A sentence which he so much admired, that, as Dr. Aikin states, "he would almost have thought it worth his while to have gone to Rome for this sentence alone." In another part of the Hospital, Mr. Howard saw fifty boys spinning

should be made to raise their minds to a due sense of their situation and destiny, as *rational* and *immortal* beings; and (in the impressive language of a friend) “to substitute the *godly* fear of *doing wrong*, for the *slavish* fear of *punishment*.” The happy consequences that have attended the humane and persevering endeavours of Mrs. Fry, have demonstrated what may be accomplished, in the most hopeless cases, by kindness, good sense, and a sincere sympathy in the wants and sufferings of others. Such an example cannot fail to diffuse itself, and call forth followers, in every part of the kingdom; and there is every reason to hope, that the buildings now erecting, or to be erected, for this purpose, will be, not only in name, but in fact, PENITENTIARIES.

Whatever the nature of a government may be, there will always be found an essential difference between *laws* and *manners*; and a great portion of the prosperity, and character, and happiness of a nation, must depend, not upon the nature of its positive institutions, but on its moral discipline, opinions, and feelings, and on its free and unrestrained efforts in the attainment of objects of national honour and

in a room, in the middle of which was suspended in large letters of gold, the word SILENTIUM.—*Vide Mem. of Mr. Howard, by J. B. Brown, Esq. p. 292.*

utility. That this improvement must always precede that of the laws is apparent, and in no country has the expediency of it been so distinctly felt, or so judiciously acted upon, as in our own; where, without political or party distinctions, we have seen the great body of the community looking to objects, in which not only their own highest interests, but the interests and rights of society at large were involved. They have thus influenced the legislature to free the oppressed African; they have united together to distribute over the whole earth the sacred scriptures; they have in almost every part of the kingdom formed social establishments for the alleviation of misery, the encouragement of industry, the promotion of liberal studies; and they have reared up a system of education for youth, which has laid the foundation of the greatest progress in intellectual and moral improvement that the world has hitherto known; and these objects have been accomplished by the unanimity, the energy, and the virtue of the public at large, independently of any injunctions of positive law, which, however auxiliary, would be found totally incompetent to produce such striking effects. The advantages derived to a state from this predilection for such pursuits and occupations, which have been encouraged by the highest ranks of society, can scarcely be too warmly

appreciated. It is the very life, and motion, and soul of a nation, the healthful blood that circulates through its veins; without which it would either become torpid and stagnant, dispirited and debased; or impatient of all reasonable rule, a cause of jealousy and dread to its neighbours, of debate and discord within itself.

Now it cannot fail to have excited the attention of every considerate observer, that a measure of such general extent and universal application as an attempt to effect a reformation in the lowest and most degraded part of the community, to diminish the frequency of crimes, and afford the perpetrators an opportunity of returning to the paths of rectitude, and thereby to exalt our moral character as a people; that such a measure cannot be expected to be accomplished merely by legislative regulations, which, when carried to an extreme of severity, outrage every feeling of humanity, or if weakly relaxed, afford an inroad to every kind of licentiousness and guilt, but must be the result of the general union and exertion of *the nation at large*. That this undertaking is not less worthy the attention of the people, than any of those in which they have before so ardently engaged, it is impossible to deny. On the contrary, it would seem to be the *first and principal task* which we ought to undertake—the very *basis and foundation* of all future improvement; without

which all our establishments, and societies, and schools; our institutions, our missions, our contributions, and our labours, are *only whited sepulchres, fair without, but inwardly filled with all manner of corruption*. It is surely at length time to learn that the reformation of a people must depend on the efforts of the people themselves; that the contest between criminality and obstinacy on the one hand, and the severe and vindictive feelings of the community on the other, should be tempered by the voice of humanity and prudence; that mankind should recollect that they have a common interest to support; and that this can only be done by destroying the lines of demarcation which have so long and so unhappily kept them asunder.

Nor will it be supposed by those who consider this subject, that the advantages to be derived from this communication will be wholly confined to the unhappy beings for whom these efforts are made. Is it possible to point out to those whose avocations and duties admit of an interval of leisure, any employment so truly beneficent, so strictly conformable to *the Christian precepts*, as that of reclaiming their fellow creatures, and restoring them to rectitude, peace, and virtue? And can this be effected on the criminal, without producing some corresponding advantages on the habits, temper, and moral character of the instructor?

who in the services rendered to another, may perhaps find the preservation of himself.

In adverting to the code of criminal law which has so long been established in Europe, and comparing it with the proposed system which has for its object the reformation of offenders, we find them, in almost every point of view, the reverse of each other. The former owes its origin to those vindictive feelings, which are incident to a rude state of society; the other is founded on Christian principles, and applies the precepts of our religion to the conduct of our lives. The one proposes to prevent crimes by the example of severe punishments; the other conceives that the best example is that of a criminal brought by proper discipline to a due sense of his crime. By the operation of the former, great numbers of offenders perish in the strength and thoughtlessness of life;* the other endeavours to preserve rather than to destroy; it considers a criminal as an unfortunate fellow-creature, led on to guilt through a great variety of causes, but capable by kindness, patience, and proper discipline, of

* It appears by Sir Theodore Janssen's tables, that "within twenty-three years, (ending in 1771), six hundred and seventy-eight young persons had been cut off in the prime of their lives, having been found under twenty-four years of age, one with another."

being reformed and restored to society. The former plan cherishes and inflames among mankind the feelings of anger and revenge, and employs the mind on the most hateful of all subjects, the *devising modes of punishing or tormenting another*;* the other embraces all mankind as brethren, and finds in the idea of recalling a fellow-creature from guilt to rectitude, the highest gratification. Even when compared with the milder system of criminal law, so eloquently recommended by many enlightened writers, the advantage is greatly in favour of the penitentiary plan. The one supposes that it is possible to *apportion* punishments to

* Dr. Paley observes, that "if a mode of execution could be devised, which would augment the horror of the punishment, without offending or impairing the public sensibility, by cruel or unseemly objects of death, it might *add something to the efficacy of the example*, and by being reserved for a few atrocious crimes, might also *enlarge the scale of punishment*, an *addition to which seems wanting*; for, as the matter remains at present, you hang a malefactor for a simple robbery, and *can do no more* to the villain who has poisoned his father. Somewhat of the kind we have been describing was the proposal not long since suggested of *casting murderers into a den of wild beasts*, where they would perish in a manner dreadful to the imagination, yet *concealed from the view*!"—Had it not been for *enlarging the scale of punishment*, it might have occurred to Dr. Paley, that the contrast would have been as effectual if the murderer had simply been put to death, and the robber committed to a Penitentiary to be reformed.

crimes, and that such punishments should be *invariably inflicted*; the other admits of *no punishment* but such as is necessary to reform the offender, and is as ready to *pardon* on evidence of repentance, as to *convict* on evidence of the crime; applying to practice on all occasions the Christian precept, *Do unto all men as ye would they should do unto you*. To extend this comparison further is surely unnecessary. If the latter plan can by any exertion be substituted for the former, is it possible that any one can doubt of its expediency?



APPENDIX.

No. 1.

REPORT of the Board of Inspectors of the Prison for the City and County of Philadelphia in the Year 1791.

TO THOMAS MIFFLIN, GOVERNOR OF THE STATE OF PENNSYLVANIA.

IT has been our constant endeavour to exercise the powers intrusted to us, according to the spirit of the penal code of Pennsylvania; we have, therefore, constantly kept in view three principal objects—

The public security;

The reformation of the prisoners; and

Humanity towards those unhappy members of society.

The first has been effected by the vigilant attention of the keeper and his deputies, which has frustrated some daring and artful plans of escape, as also by the mild and prudent treatment, which has reconciled the greater part of the prisoners to their condition.

The second object we have pursued by moral and religious instruction, by promoting habits of industry, by a separation of the sexes, by the prohibition of spirituous liquors, by exclusion of improper connexions from without, and by confining the refractory to solitude, low diet, and hard labour.

The third we have attained by supplying the prisoners with necessary food, clothing, fuel, medical assistance, and by recommending to the governor's pardon those whose trespasses are of a venial nature, and such as from their industry, quietness, and good behaviour in gaol, appeared to merit a restoration of their civil rights.

To this general account we shall add a few particulars : Bibles, and other books of practical religion, have been provided for the use of the prison ; the clergy of the different denominations in the city and suburbs, perform divine service once a week, commonly on Sunday mornings, and other edifying persons have at all times access to the prisoners ; a regular course of labour is kept up in various branches of industry, from which there are a number of persons daily supplied with flax, prepared in its best state ; rope-makers, ship-chandlers, and carpenters, are served in the pounding of hemp, and picking large quantities of oakum ; plaster of paris is prepared for manure and the use of mill-stone manufacturers ; hatters and dyers are supplied with chipped logwood, and the women spin flax ; solitary cells have been constructed, calculated for the safe keeping and proper correction of the obstinate ; and the security of the gaol is improved by the addition of lamps, and watchmen who go the rounds during the night.

From the experiments already made, we have reason to congratulate our fellow citizens on the happy reformation of the penal system. The prison is no longer a scene of debauchery, idleness, and profanity ; an epitome of human wretchedness ; a seminary of crimes destructive to society ; but a school of reformation and a place of public labour. We hope, by the blessing of Divine Providence, that the community of rational beings may be preserved, without the deplorable necessity of cutting off evil members by a sanguinary process, of exposing them on whipping-posts to the painful sympathy of the humane, and the barbarous mockery of brutal mobs. This hope is confirmed by the singular fact, that of the many who have received the governor's pardon, not one has been returned a convict.

By Order of the Board,

GEORGE MEADE, Chairman.

Philadelphia, Dec. 7, 1791.

No. II.

AN ACCOUNT of the Alteration and Present State of the Penal Laws of Pennsylvania, &c. by CALEB LOWNES. First published at Philadelphia in 1793.

INTRODUCTION.

ENQUIRIES are frequently made by citizens as well as by strangers, about the interior management of the gaol and penitentiary house of Philadelphia: and as I have frequently been requested by respectable characters in other states, who wished a change in their system, to furnish some account of the means that led to the present regulations of our prison, and the effects produced by them, connecting this account with the *Enquiry, &c.** may be as proper a mode as any that can be adopted for giving them the desired information. I have therefore made the attempt, and if any assistance in my power can contribute to promote a work of so much importance to mankind as that of reforming the system of criminal jurisprudence, I shall freely afford it. The many improvements, both in government and the arts, which have been produced in our time, afford pleasing prospects to liberal and enlarged minds, and have been a great encouragement to those who have ventured to combat ancient prejudices, and to attempt improvements, in a science hitherto so little attended to, and of so great importance in every system of legislation.

It is true, society has not been without information upon this interesting subject. Montesquieu, Beccaria, Löffl, and others, have thrown considerable light upon it. The benevolent Howard greatly sympathised with the wretched pri-

* Mr. Bradford's *Enquiry respecting the Punishment of Death, &c.*

soner ; he has largely displayed the errors in principle, and the cruelties in practice, of the criminal laws of most countries in Europe ; and having laboured with uncommon zeal to alleviate the evils which they have produced, died in the prosecution of this important service ; but a system founded upon the clear and unquestionable rights and duties of citizens of a mild and well ordered government, has not yet met the public eye : Pennsylvania has gone the farthest in the formation of such a system, of any government that has come to my knowledge, and from the exertions of the present legislature, we have reason to hope that she will be the first to place the *fair* " key-stone to the arch of this benevolent work."

A BRIEF ACCOUNT OF THE ALTERATION OF THE PENAL LAWS
OF PENNSYLVANIA.

THE distresses of the prisoners, and disorders in the prison, in this city, had long engaged the sympathetic attention of many of the inhabitants. Occasional relief was often afforded ; but the first attempt, essentially to remove these evils, was made a few years before the revolution ; when a society was formed for that purpose. The war put an end to the society.

In the year 1776, the convention of Pennsylvania directed a reform of the penal laws, and the introduction of *public* hard labour, as a punishment for offences. This was attended to by the Legislature ; and an essay was made in the year 1786, by a law which directed, that the convicts should be employed in cleaning the streets, repairing the roads, &c. have their *heads shaved*, and be distinguished by an *infamous* habit. This was literally complied with, but however well meant, was soon found to be productive of the *greatest evils* : and had a very opposite effect from what was contemplated by the framers of the law. The disorders in society, the robberies, burglaries, breaches of prison, alarms in town and country ; the drunkenness, profanity and indecencies of the prisoners in the streets, must be in the memory of most.

With these disorders, the numbers of the criminals increased to such a degree as to alarm the community with fears, that it would be impossible to find a place either large or strong enough to hold them. The severity of the law, and disgraceful manner of executing it, led to a proportionate degree of depravity and insensibility, and every spark of morality appeared to be destroyed. The keepers were armed with swords, blunderbusses, and other weapons of destruction. The prisoners, secured by cumbersome iron collars and chains, fixed to bomb-shells. Their dress was formed with every mark of disgrace. The old and hardened offender daily in the practice of begging and insulting the inhabitants, collecting crouds of idle boys, and holding with them the most indecent and improper conversation. Thus disgracefully treated, and heated with liquor, they meditated, and executed, plans of escape—and when at liberty, their distress, disgrace, and fears, prompted them to violent acts, to satisfy the immediate demands of nature. Their attacks upon society were well known to be desperate, and to some they proved fatal!

In this situation of things, the minds of the citizens were variously affected; some were concerned for the condition to which the laws had doomed them indiscriminately; others were affected with the scenes which the streets of the city exhibited—Scenes which were a disgrace to any people! Whatever were the motives, exertions were used to alleviate the sufferings of the prisoners, and, if possible, to apply a remedy for these great and growing evils.

The magnitude of these sufferings and disorders, at length induced the attempt of forming a society for that purpose, which was effected under the title of “The Philadelphia Society for alleviating the Miseries of Public Prisons.”—It soon became large and respectable, and from subscriptions and donations early possessed funds equal to its object.

They appointed a committee of six members to visit the prisons; furnish bread when necessary; clothe the naked; accommodate differences; discharge those confined for small debts; and generally to mitigate the sufferings inseparable

from such places of confinement. At the time they visited, the disorders *out of prison* equally attracted their attention, and excited a more particular enquiry into the causes of these complicated evils. They were well assured that the funds of the society would be distributed to little effect, unless some means were used to discover the *cause* and to *remedy* the evil. A firm conviction was soon produced, that the *severity of the laws*, with the *disgraceful mode* of carrying them into effect, joined to a *want of government* in the prison; the admission of all kinds of characters to a *free communication with the prisoners*; the *unlimited use of spirituous liquors*; the indiscriminate mixture of all descriptions of prisoners, without regard to character, sex, or condition, and idleness in the house, were among the principal causes of the evils complained of: to remedy which, the society, in conjunction with the corporation, made an application to the legislature for an alteration in the penal system, to place the prison under the *inspection of some of the citizens*; to erect solitary cells; and to form a plan for its government. This was complied with, and inspectors were directed to be chosen; who were empowered, with the approbation of the mayor, two aldermen, and two judges of the supreme court, or two of the judges of the common pleas of Philadelphia county, to make *rules and regulations for the government* of all convicts confined in the said prison, &c. The first care of the inspectors was to *remove the debtors* into another house, entirely distinct from the convicts' prison; to put a stop to all improper *out-door communications*; to separate the sexes; to suppress the *use of spirituous liquors* of all kinds; to introduce a *system of labour*, suited to their situation, trades, and strength; to frame a *plan of government for the house*, and *directions for the officers*; and generally to introduce *order, decency, economy, and industry*.

The business before them was laborious, but the necessity and importance of the work encouraged them to exertions, which, for a time, were arduous, and attended with many unpleasant circumstances; but a steady perseverance overcame many long-established injurious customs, and pro-

duced the present agreeable change, an account of which I shall now, as briefly as possible, proceed to state.

One of the oldest, and not least of the evils, was

GAOL FEES.

This injurious custom, attended with such a variety of evil consequences, was discontinued, and the KEEPER compensated in a *more eligible and permanent manner*, by a *yearly salary* of 400*l. per ann.* for himself and clerk; and as a stimulus to a proper attention to the *employment of the prisoners*, allowed five per cent. on the proceeds of their labour.

GARNISH.

This cruel and disgraceful practice, so well known to the unhappy objects, who have had the misfortune to be committed to these places of confinement, whether felon or debtor; guilty or innocent; able or unable; strip or pay was the first salutation; this practice was instantly suppressed, and is now unknown.

BREACH OF PRISON.

This disorder, formerly so frequent and alarming, is now effectually remedied. There were a few attempts soon after the present plan was introduced; but the present government of the place, with the vigilance of the keepers, have prevented any escapes by this mode.

PLAN, CONSTRUCTION, &c. OF THE PRISON.

This place of confinement occupies a lot of 400 feet by 200; on which is erected a large stone building, 184 feet long the north side, two stories high, divided into rooms of equal dimensions, viz. 20 by 18 feet; an entry in the middle of $7\frac{1}{2}$ feet wide, which leads to a hall or passage, extending the length of the building $11\frac{1}{2}$ feet wide, with stairs and windows at each end; the upper story is exactly on

the same plan as the lower ; the cellars are also on the same plan : there are eight rooms on each floor, all arched, for the two-fold purpose of securing against *fire and escapes*, with two windows in each room. On the east and west end are two wings extending 90 feet south, two stories high, containing five rooms on the floors of each wing, nearly the size of those in front, but with one window, all arched in the same manner also : the ground-floors of these were formerly occupied as places of greater security, upon the general principle of dungeons, but have not been used for some time. On the south-side is a large stone building, designed for a work-house, where the debtors are now confined. Three-hundred feet of the north part of the lot is appropriated to the use of the convict prison, and one hundred feet of the south part to the debtors. The first is divided into portions for the accommodation of the different classes of prisoners. The women have a court-yard of 90 feet by 32 ; the vagrants, &c. one of the same dimensions. The penitentiary house, or solitary cells, about 160 feet by 80. Each yard is furnished with pumps, baths, sewers, and necessities : under the debtors' yard, on the north side, runs a natural water-course, which is arched, and is a great accommodation.

DISTRIBUTION OF PRISONERS, AND APPROPRIATION OF THE BUILDING, &c.

THE MEN CONVICTS,

For security and air, are lodged on the second floor of the east wing ; one room is occupied by the shoe-makers for a shop ; one for the taylor and barber ; the rest for lodging rooms.

THE WOMEN CONVICTS

Are lodged and employed on the first floor, in the west wing, and have the use of the court-yard, already described.

APPENDIX.

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THE WOMEN VAGRANTS

Have the upper floor of the west wing, and occasionally the use of the women convicts' yard.

MEN VAGRANTS

Occupy the first floor of the east wing, and have the use of the yard before described.

SOLITARY CELLS, OR PENITENTIARY HOUSE.

This building, directed to be built by the legislature, was early undertaken, and finished with all possible expedition. It is a plain brick building, three stories high; the first floor is paved with bricks, and is open on the north and south; three arches, running the length and breadth of the building, support the rooms and passages of the house. Each floor is divided into eight cells, six by eight, and nine feet high, and two passages running through the middle; the passages are about four feet wide, have a window at one end, which admits light and air, and a stove in the middle to warm the rooms; each cell has a large leaden pipe, which leads to sewers at the bottom, and which are kept clean by smaller pipes, leading from a cistern, into which, occasionally, is conveyed a sufficient quantity of water. The windows are secured by blinds, and wire to prevent conveyances either in or out. The doors and sashes are so constructed as to admit as much air as the prisoner desires.

The large yard is occupied by the convicts, to labour and to air themselves in. The yard, in which the solitary cells are built, is occupied as a garden, in which vegetables for culinary, and other purposes, are cultivated. It is managed by some of the orderly convicts.

PLAN OF GOVERNMENT, AND REGULATIONS OF THE HOUSE.

The order and management of the house is directed by

the inspectors, who meet every two weeks, or oftener, as occasion requires; they appoint two of their number, who continue in their appointment one month, as

VISITING INSPECTORS,

Whose duty is to visit the prison, and inspect the management thereof, the conduct of the prisoners, &c. once a week, or oftener, and report to the board at their next meeting.

The governor and judges of the supreme court, and mayor, with all the judges of the several courts of this city and county, as well as the grand juries, visit quarterly; a circumstance which greatly promotes the success of the plan, as it strengthens the hands of the officers, and encourages the prisoners to a propriety of conduct, and thereby claiming their attention, and obtaining a remission of their sentence; for they well know if they have conducted themselves improperly, that they have no encouragement to *hope*; but on the contrary, great cause to *fear*; those especially of the worst characters are thus influenced to a careful attention to preserve a propriety of conduct, in order to have some plea for their application for a pardon.

Having thus given a short account of the plan and government of the prison and penitentiary house, I proceed to state the method of treating and employing the convicts at present pursued by the inspectors. It is not probable that this will meet the approbation of every one: but it is the best that the circumstances of the place, and the opportunities of those engaged in the work would admit of. There have been many opinions about the mode of treating the convicts. Some seem to forget that the prisoner is a rational being, of like feelings and passions with themselves. Some think that he is placed there to be perpetually tormented and punished. Some prescribe a certain time as necessary to his cure. One will not allow him the light of heaven, or the refreshment of the breeze; the comforts of society, or even the voice of his keeper: while another considers a seclusion from his friends and connections, as a ground for accusation of inhumanity. These opinions have not been overlooked by the inspectors: they have adopted that plan, which, upon

full consideration, was deemed best, though not perfect: and the effects of it have not hitherto disappointed their hopes.

GOVERNMENT.

In every prison good government is necessary; and unless this is kept in view, it would be useless to change the penal system, or expect benefit, either to the prisoners or the community.

It is an *error* very generally entertained, that it is very *difficult*, if not *impossible* to reduce these characters to order, and to govern them by *mild measures*; and that it requires a person of a *violent and unfeeling disposition*, to manage or keep them in any *tolerable bounds*. I shall avoid saying much on this subject, and limit myself simply, to an account of the management in this house, and *its effects*, and let *the fact* answer those who have been of this opinion. *Mild regulations strictly enjoined*, will meet with little resistance. There should be no hope of impunity, and there will be little necessity for seeking for *the punishment* that shall be the most effectual; but if *punishments* be deemed necessary, let those of a *disgraceful nature* be avoided.

When the present plan was last attempted, the prisoners were informed, that the new system was now to be carried into full effect, that their treatment would depend upon their conduct; and that those who evinced a disposition that would afford encouragement to the inspectors to believe, that they might be restored to their liberty, should be recommended to the governor for a pardon, as soon as circumstances would admit; but if they were convicted again, the law, in its fullest rigour, would be carried into effect against them. A change of conduct was early visible. They were encouraged to labour, and a number were employed in carrying stones, and other laborious work, at the building of the solitary cells. Their good conduct was remarked. Many were pardoned, and before one year was expired, their behaviour was, almost without exception, decent, orderly, and respectful. This fact is of importance, as it disproves an opinion, that has led to much distress and

cruelty, and will, I hope, be an encouragement to those who can feel for this unhappy class of mankind, who have so long been victims to the sad effects of a contrary treatment.

CLEANLINESS.

The house is white-washed three times a year, or oftener, as occasion requires.

The passages and rooms are washed twice a week in summer, and once in winter.

The prisoners have clean linen once a week, and are washed every morning. Towels are hung up in the several passages. The men shave twice a week, and the baths are used in summer.

DRESS.

The men are clothed in woollen jackets, waistcoats, and trowsers in winter, and linen in summer, shirts, shoes, &c. The orderly prisoners, who by their industry, earn a sufficiency for the purpose, are allowed a better suit to attend public worship. The principal objects in their cloathing are, *usefulness, æconomy, and decency.*

The women are dressed in plain short gowns, of woollen in winter, and linen in summer. Most of the cloathing, at present, is spun, wove, and made up in the house, and is designed to be so altogether in future.

LODGING.

The prisoners are lodged in beds, with sheets and blankets on bedsteads; the beds are filled with red cedar shavings. We have found this regulation greatly conducive to cleanliness and decency. The former practice of prisoners sleeping in their clothes, and being crowded together without any regard to decency, was destructive to the health of the prisoners, and was attended with many other ill consequences, especially where men are collected in the manner they are in prisons.

DIET.

The diet is plain, cheap, and wholesome, but sufficient in

quantity. No provisions are allowed beside the prison allowance, except the more laborious part, while orderly, who are allowed to get some of the heads of the sheep from the butchers, at their own expense: this is esteemed an indulgence, and is attended with good effects, both physical and moral. Molasses are experienced to be very salutary to the health of the prisoners, as well as useful in gratifying them with a small luxury. The orderly women are sometimes indulged with tea.

EMPLOYMENT.

The men are employed according to their abilities and circumstances. The procuring suitable and sufficient employment was for a considerable time a great difficulty, but there is now a sufficiency of productive and suitable labour for all, and a great number more than are now in the prison.

The principal employments are shoe-making, weaving, and tailoring; chipping logwood, grinding plaister of Paris, beating hemp, sawing and polishing marble; occasionally swingling flax, picking oakum, wool, cotton, and hair; carding wool for hatters, sawing wood, &c.

The women are employed at heckling, spinning, sewing, and washing.

REWARDS AND PUNISHMENTS.

If the prisoners conduct themselves with propriety, they attract the attention of the keepers and inspectors; who make enquiry into their circumstances; encourage them to bring forward recommendations from respectable citizens that they have lived with, or have had a knowledge of them; and, if it should appear proper, or prudent, they are recommended to the governor for a pardon. If any old offenders make application, they are not recommended until there appears some encouragement from long habits of orderly conduct in the house; and then with much caution.

There is no *corporal punishment*, such as stripes, &c. inflicted. But in case of improper behaviour, which very seldom has happened, they are removed to the solitary cells, and abridged in their diet; the consequences of which are stated in the observations on the effects of this mode of treatment, in this work. The apprehensions of the consequence of dis-

orderly conduct, and the hopes arising from a propriety of behaviour, has hitherto held them within the limits of a very commendable attention to the rules of the house.

BREACHES OF PRISON.

There have not been any effected for nearly two years, (the time that the place has been under the care of the inspectors): the last breach was the evening of the day that the execution of the new system was seriously entered upon; when a plan of escape was meditated by the greater part of the prisoners; fifteen actually made their escape, the rest were prevented from effecting their design, by the activity and resolution of the present keeper.

They have now other and better hopes of obtaining a restoration to liberty, arising from a *propriety of conduct*, which they know has been a *means* of procuring the liberation of many, for *first offences*, under the new system. As the behaviour of many that have been thus discharged has afforded encouragement to a continuance of the practice, it has, with the government of the place, mild treatment, and watchfulness of the officers, not only *entirely secured the place from breaches*, but from *any alarms* on that account for a long time.

PHYSICIAN.

A physician is appointed by law, who visits the prisoners once a week, or oftener, as occasion requires, and affords such assistance to the diseased as the nature of the case requires.

RELIGIOUS DUTIES.

One day in the week being set apart for this purpose, by all denominations of christians; it is a regulation of the house, that all the prisoners assemble on that day, for the purpose of public worship; on which some one or other of the ministers of the different religious denominations attends. It is rare that the day is spent without the friendly visits of some well disposed person, for the purpose of promoting this part of the christian duties, a service obviously important, and which, it is to be hoped, will always be attended to by those who believe it their business to labour for the resto-

ration of such as have deviated from the paths of rectitude and virtue.

The prisoners are generally desirous of attending, and always conduct themselves with decency and attention, and some appear to be benefited. The afternoon of the day is mostly spent, by many of them, in reading; proper books being furnished for that purpose.

EFFECTS OF THIS MANAGEMENT ON THE CONDUCT OF THE PRISONERS.

Whilst the visiting committee of the prison society attended to relieve the distresses of the prisoners, they were considered as their best friends, and it was impossible but that the committee, on many occasions, might be deceived by the accounts of the artful and depraved characters in confinement, who, no doubt, frequently made very improper applications of the assistance afforded them. But, no sooner was the meditated reform attempted, than they manifested their opposition, preferring their state of wretchedness, to any alteration that they knew would deprive them of the indulgence in those excesses of debauchery and riot, that had long prevailed, in this as well as other prisons. The reform was, however, attempted, and persevered in, to the apparent danger of all concerned in its promotion; from these desperate and disappointed characters, consequences not unreasonable to expect. After much labour and patience, they were reduced to some degree of order. Mild, but firm measures were adopted, and order and quietness gradually effected, but not till some time after the prison was placed under the direction of the inspectors, who they knew were clothed with a power of obtaining a remission of their sentence, or fixing it, without the most distant prospect of hope: this led to a circumspection of conduct, for they knew that all improper behaviour would be reported to the inspectors. Different kinds of labour were introduced, but it was a considerable time before *proper* kinds were obtained. Time and perseverance, however, overcame this great obstacle, and employment, at length, became desirable, and much care observed, by the prisoners, to preserve a due attention to the rules of

the house, any material deviation being attended with seclusion from the society and privileges of the orderly prisoners. The men were early relieved from their irons, and few were found to require rigorous treatment. But one instance has occurred of refusal to work, which was soon remedied, by a separation of the criminal from the orderly prisoners, and confining him in the solitary cells, where he remained some weeks, without labour, bed, or furniture of any kind, except a vessel to hold his drink, and another his mush, and a blanket. In this cheerless habitation, he spent many anxious hours, confined to the reflections inseparable from guilty minds; he was ignorant how long his present situation was to continue; he was without employment, nothing to amuse him, in a state of suspense and uncertainty, when the hour would arrive that was to restore him, or how he should atone for his offence; he made many protestations, and used many means to obtain a friend. The object being obtained for which he was separated from the rest, he was restored. The utmost propriety of conduct has been observed by this man ever since. Besides this instance, there has but one occurred, of a wilful violation of the rules, among the men prisoners, which I shall mention very briefly, which will prove the effect of this mode of treatment on the conduct of the prisoners. Two men had some difference; they agreed to decide it by fighting, but knowing the consequences of a breach of the rules, agreed to accomplish it in a room by themselves, in order to keep the other prisoners in apparent ignorance, who they knew would suffer similar treatment with themselves, in case of discovery. The scuffling unexpectedly reached the ears of the keepers, who repaired to the room, found the disorder, and led the combatants to the cells, where they had time and opportunity of settling the matter in dispute in a more reasonable manner.

One more instance is all I shall relate, which was the case of a woman, of an extremely bad character, an old offender, and very ungovernable, who had made an attempt to burn the prison. She stood the confinement for some weeks with firmness, but finding that the keeper was easy; no provocation offered to keep up her passions; no remedy; no pros-

pect of resenting her treatment, at length submitted, but was for some time retained in this cheerless place, making many promises; among the rest, offered to perform two days work, each day, during her confinement, and to agree to an immediate return to the cells, upon non-compliance with this promise, or of any of the rules of the house. She was now informed that the officers had no object in view, beside the strictest attention to the rules of the house, and the real welfare of those whose lot it was to be committed to their care; that it was vain to oppose the order of the place; that her disorderly conduct could only affect herself; and that if she would accept her restoration upon these considerations, she should have it: she accepted it. The consequences resulting from this mode of treating offenders, and of these few instances of seclusion, have been the most agreeable order and quietness, and no occasion of coercion has occurred besides for many months.

The order in their employments; their demeanor towards the officers; harmony amongst each other; and their decorum and attention, at times appointed for religious worship, have been obvious, and are such as have obtained the approbation of all those who have been witnesses to it; and we trust that the impressions received in this secluded state of existence, will have a happy influence towards promoting the great object contemplated by the change of the penal code by the legislature of this commonwealth.

OBJECTIONS TO THE PRESENT PLAN BRIEFLY CONSIDERED.

The principal objections that have been offered against this plan have been on account of—

- I. The Expense.
- II. Want of Suitable Labour.
- III. Want of Accommodation.
- IV. Want of Security against Escapes.
- V. Want of Benefit to Society.

As to the first, the law requires, that an account shall be opened with the prisoners, which is done, and they are charged with the costs of prosecution, their diet and cloathing, and credited by their labour, and the balance, if any, is to

be given them *at discharge*, either in money or cloathes, at the discretion of the inspectors, or both ; considerable balances have been found in favour of some, and few but now have more or less ; some balances have been as high as 10*l.*, many near it ; so that as to their individual expense, there is not much doubt of their being able to earn as much as will pay all the expense they occasion to the county ; and unless the numbers become *too few*, might be made to contribute towards paying the salaries of the officers of the house. There are men now in the house who appropriate a part of their earnings to the support of their families. It is a point carefully attended to, that the prisoner goes out *well clothed*, and mostly with money in his pocket ; a regulation too obvious to need much comment. The former plan of turning a poor wretch, after a long confinement, perhaps for fees only, in idleness, without the least prospect or possibility of obtaining that support, which he immediately stood in need of, was miserably defective. The prisoner discharged, generally stands in more need of the friendly assistance of the humane, than almost any other character. This assistance is afforded in this city, when occasion requires, by the Society for alleviating the miseries of public prisons.

II. WANT OF SUITABLE LABOUR.

This was long a serious objection, but patience and perseverance have overcome this difficulty.

Shoe-making, tailoring, weaving, chipping-logwood, beating hemp, grinding plaster of Paris, grinding and polishing marble, will long afford a sufficiency and variety of employment ; and all are sufficiently productive. Spinning, heckling, picking oakum, wool, flax, and cotton, carding wool for hatters, with many other employments, may occasionally be profitably used by the weakly and infirm. To those who think that the labour should be public, hard and disgraceful, I will just observe, that this mode has been tried and proved ineffectual. *Hard labour* is comparative, and depends upon the state of the person employed ; and when we take into consideration the nature of the diet, and life of the prisoners, most of the first mentioned employments are found to be sufficiently severe.

As to disgraceful labour or treatment of any kind, it has not had, nor can have, any valuable tendency towards restoring an offender to usefulness in society, and it is therefore discontinued.

III. WANT OF ACCOMMODATION.

As to this objection, it is evidently the duty of every government to provide it. *It is a strange kind of economy, to hang our fellow-creatures to avoid the expense of preparing a proper place of confinement :* but I may add, that our empty rooms have increased so as not only to admit of more convenient accommodation, but far beyond our expectations.

IV. WANT OF SECURITY AGAINST ESCAPES.

I have already stated, that prisoners are, and always may be, secured by proper care, watchfulness, and lenient treatment. Beside the gaoler, turnkey, and clerk, there are but two officers in the house ; one over the men, and one over the women ; and they are found to be quite sufficient, whilst the place is conducted upon the present plan.

V. WANT OF BENEFIT TO SOCIETY.

How little effect the former system of punishments had in preventing crimes, is too well known to need any explanation at present. We are now to examine, whether any beneficial consequences have followed the alteration that has taken place in the treatment of the convicts.

It is not more than two years that the new regulations have had their full operation, although the law which authorised them, was passed some time before. But in that short time, the effects which have flown from them, have been remarked with much satisfaction by the citizens at large, as well as by those whose situation offered superior opportunities for observing them. These effects proceed, either from a real reformation taking place in the minds of the prisoners, or from a terror of the consequences which they know will attend a second confinement.

During their continuance in prison, they learn many things which operate as a check upon the commission of new crimes. They learn the difficulty of evading justice ; and

that, as the laws are now mild, they will be strictly put in execution. They now see that juries are not unwilling to convict, and that pardons are not granted till they discover some appearances of amendment. The penalty, though not severe, is attended with many unpleasant circumstances, and many of them deem the constant return of the same labour and of coarse fare, as more intolerable, than a sharp, but momentary punishment. They know that a second conviction would consign them to the solitary cells, and deprive them of the most distant hopes of pardon. These cells are an object of *real terror* to them all, and those who have experienced confinement in them, discover by their subsequent conduct, how strong an impression it has made on their minds. They know that mercy abused will not be repeated, and neither change of name nor disguise will enable them to escape the vigilant attention with which they are examined. These reflections, or reflections like these, have had their weight: for out of near 200 persons, who at different times have been recommended to, and pardoned by the governor, only four have been returned: three from Philadelphia, re-convicted of larceny, and one from a neighbouring county. As several of those, thus discharged, were old offenders, there was some reason to fear, that they would not long behave as honest citizens. But, if they have returned to their old courses, they have chosen to run the *risk* of being hanged in other states, rather than encounter the *certainty* of being confined in the penitentiary cells of this. We may therefore conclude, that the plan adopted has had a good effect on these; for it is a fact well known, that many of them were heretofore frequently at the bar of public justice, and had often received the punishment of their crimes under the former laws.

Our streets now meet with no interruption from those characters that formerly rendered it dangerous to walk out in an evening. Our roads in the vicinity of the city, so constantly infested with robbers, are seldom disturbed by those dangerous characters. The few instances that have occurred of the latter, last fall, were soon stopped. The perpetrators proved to be strangers, quartered near the city, on their way to the westward.

Our houses, stores, and vessels, so perpetually disturbed and robbed, no longer experience those alarming evils. We lie down in peace, we sleep in security.

There have been but two instances of burglaries in this city and county for near two years. Pick-pockets, formerly such pests to society, are now unknown. Not one instance has occurred of a person being convicted of this offence for two years past. The number of persons convicted at the several courts have constantly decreased ; thirty and upwards, at a session, have frequently been added to the criminal list : at this time, when both city and county courts are but a few days distant, there are but *five for trial* ! Such have been our measures, such is the state of things, and such the effect. If any one can assign other causes for them, than are here adduced, they must have other opportunities, other means of information than I am acquainted with.

No. III.

A Statistical View of the operation of the Penal Code of Pennsylvania, to which is added, A View of the present state of the Penitentiary and Prison, in the City of Philadelphia. Prepared and published, in pursuance of a Resolution of the Philadelphia Society for alleviating the miseries of public prisons.

Philadelphia, 1817.

EVERY well informed Pennsylvanian has made himself acquainted with the benevolent principles upon which the criminal laws of this commonwealth have been reformed. The success of the system has penetrated every portion of the civilized world, and obtained for this commonwealth, the plaudits which the humane views and a successful execution of the penitentiary system have merited from the wise and good throughout the universe.

The present publication is made with a view of shewing

the operation of the penitentiary system, generally, and particularly to invite the attention of all good men, who feel a due sense of the importance of the subject, to a serious consideration of this important question,

Whether, on the facts stated, it is not absolutely necessary, immediately to pursue further measures, not only for the improvement, but for the very preservation of the system, against the evils resulting from the incompetency of the means of carrying it on, with all the effects proposed to be produced by its benevolent authors.

In the year 1795, a publication similar to the present appeared under the authority of very respectable names, subjoined to an excellent essay on the criminal law of Pennsylvania, by the late William Bradford, Esq. formerly attorney general of this state, and of the United States, a gentleman eminently distinguished by his active benevolence, and the dignity and splendour of his public character. The present penal code was chiefly composed by that gentleman, and it will ever remain a monument of his knowledge, and love of human nature. Among other interesting facts stated in the publication referred to, are the following: that after the system had been in operation not more than two years, such was its efficacy, that out of near two hundred persons, who had at different times been pardoned, only four had returned; that there had been but two instances of conviction of picking pockets or burglaries, in the city and county for near two years; that the number of persons convicted in the several courts had constantly decreased, thirty and upwards of a session, having been frequently added to the list; that, although the city and county courts were but a few days distant, there were but five persons for trial. Such were the means then in the power of the inspectors, of executing the system in its spirit and design, with the aid of extensive accommodations, and sufficient and suitable labour, that the rooms in the prison, and the prison yard, afforded convenient and ample room for the separation and employment of the convicts; and finally so productive was their labour, that when discharged, considerable balances were found in favour of some; and but few, who had not more or less; that those

balances often exceeded ten pounds, and that some of the prisoners appropriated part of their earnings to the support of their families. Such at that time was the happy effect of the system when properly executed.

The present state of the penitentiary affords a melancholy and striking contrast: the building in which the prisoners are confined, and the yard in which they are employed, are the same used for those purposes in the year 1795: no additional accommodations, either for the lodging or employment of the convicts, have been provided.

The following facts, which appear in the recent presentment of a respectable grand jury, will enable every one to appreciate the importance, indeed necessity, of giving due efficacy to this benignant system. "That while thus the grand jury notice with pleasure the high degree of order and cleanliness, they are compelled by a sense of duty to present as an evil of considerable magnitude, the present very crowded state of the penitentiary. The number of persons of all classes continues to increase, so that from thirty to forty are lodged in rooms of eighteen feet square." So many are thus crowded together in so small a space, and so much intermixed, the innocent with the guilty, the young offender, and often the disobedient servant or apprentice, with the most experienced and hardened culprit; that the institution already begins to assume, especially as respects untried prisoners, the character of an European prison, and a seminary for every vice; in which the unfortunate being, who commits a first offence, and knows none of the arts of methodised villainy, can scarcely avoid the contamination, which leads to extreme depravity, and with which from the insufficiency of the room to form separate accommodations, he must be associated in his confinement.

There are at this time (January, 1817), 451 convicts in the Penitentiary; of which number, 162 have been before convicted and pardoned. The number of untried prisoners returned on the calendars, at the different sessions of the mayor's court of the city and quarter session of the county of Philadelphia, was—

| | |
|-----------------------------|-----|
| In the year 1813, | 516 |
| 1814, | 538 |

In the year 1815, 829
 1816, 1058

Having presented these reflections and truths to public notice, and beseeching a particular regard to their importance, we leave the subject to a virtuous community, upon the remedy of which there is ample opportunity and occasion for calling forth genuine benevolence and charity.

In the month of April, 1816, the Philadelphia Society for alleviating the miseries of public prisons, appointed a committee to prepare and publish for the use of the society, a statistical view of the operation and effect of the amended penal code of the state of Pennsylvania, as exhibited in the numerical amount of convictions; so far as could be obtained from a recurrence to the records of the Philadelphia prison, and to such other means of information, as the committee might have it in their power conveniently to refer to. It may be proper to state, that persons convicted in any county in Pennsylvania, other than Philadelphia county, of any crime (except murder of the first degree,) if punished with imprisonment, for one year or upwards, are usually removed to Philadelphia prison. A statement therefore of the numerical amount of convicts in that prison, together with the numerical amount, (ascertainable at Harrisburg,) of convictions throughout the State, for murder in the first degree, would present a sufficiently accurate view of the number of convictions in Pennsylvania, during the period taken, for such crimes. The committee, in execution of the duty imposed upon them, have had as complete a statement as was conveniently practicable drawn up at the Philadelphia prison. They regret to state that their endeavours to add the most important item, to wit, the number of convictions in Pennsylvania, for murder of the first degree, during the period assumed, by an application to the competent authority at Harrisburg, have not been successful: with a view of obtaining this information, the publication of the present statement has been much delayed. In order to prevent further delay, it is now published with the disadvantage of exhibiting the number of convictions for murder in the first degree, in the county of Philadelphia alone.

TABLE I.

Being a view of the operation of the penal code, for a period of not quite eight years, from 1779, to 1786, the year in which the number of capital crimes was first reduced.

By the act of 1718, the following crimes were made capital, viz. *Treason, Murder, Robbery, Burglary, Rape, the crime against nature, malicious Maiming, Manslaughter by stabbing, Arson*; and by subsequent acts, *counterfeiting bills of credit*, or the *current coin* were added, and the crime of arson extended to include certain public buildings. All these crimes were capital until the first of November, 1786.

| CRIMES. | 1779 | 1780 | 1781 | 1782 | 1783 | 1784 | 1785 | 1786 | Total. |
|---|------|------|------|------|------|------|------|------|--------|
| Robbery . | 5 | 3 | 3 | 15 | 2 | 7 | 0 | 0 | 35 |
| Burglary . | 3 | 6 | 10 | 8 | 5 | 8 | 4 | 10 | 54 |
| Murder . . | 5 | 2 | 0 | 2 | 5 | 1 | 5 | 0 | 20 |
| Treason . . | 4 | 2 | 1 | 0 | 0 | 0 | 4 | 0 | 7 |
| Counter- feiting bills of credit . } | 11 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 17 |
| Arson . . . | 0 | 1 | 0 | 0 | 3 | 0 | 0 | 0 | 4 |
| Rape . . . | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 3 |
| Crimes against nature } | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 |
| | 28 | 20 | 15 | 25 | 16 | 16 | 11 | 10 | 141 |

Executed 73

Pardoned, died, escaped, &c. 68

Total. 141

TABLE II.

Containing a similar enumeration, for the same period, from 1786 to 1794, when the punishment of death, except for murder of the first degree, was abolished.

By the act of the 15th of September, 1786, robbery, burglary, and the crime against nature, were made punishable by servitude at hard labour, &c.

By the act of the 22d April, 1794, the punishment of death, except for murder in the first degree, was abolished.

| CRIMES, | 1786 | 1787 | 1788 | 1789 | 1790 | 1791 | 1792 | 1793 | Total. |
|------------------------------------|------|------|------|------|------|------|------|------|--------|
| Robbery . . | 7 | 6 | 7 | 22 | 11 | 2 | 4 | 0 | 59 |
| Burglary . . | 4 | 7 | 14 | 9 | 5 | 6 | 5 | 3 | 53 |
| Rape . . . | 3 | 0 | 1 | 0 | 0 | 0 | 2 | 0 | 6 |
| Arson . . . | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Counter- feiting the coin. } | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Murder . . | 0 | 3 | 0 | 6 | 3 | 0 | 2 | 0 | 14 |
| Crime a- gainst nature. } | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| | 14 | 17 | 24 | 37 | 19 | 8 | 13 | 3 | 135 |

Executed 15

Pardoned 8

Servitude at hard labour, deaths, escapes, &c. 112

Total 135

TABLE III.

Enumeration of crimes, from 1794 to 1802, a period of eight years.

| CRIMES. | 1794 | 1795 | 1796 | 1797 | 1798 | 1799 | 1800 | 1801 | Total. |
|--|------|------|------|------|------|------|------|------|--------|
| Murder in the first degree | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Murder in the second degree | 2 | 0 | 5 | 0 | 2 | 2 | 0 | 2 | 13 |
| Attempt to murder by poison | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Assault with intent to murder | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Manslaughter | 0 | 0 | 1 | 1 | 1 | 1 | 0 | 0 | 4 |
| Mayhem | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Rape, and assaults } with intent to } commit | 2 | 1 | 1 | 0 | 1 | 0 | 2 | 0 | 7 |
| Concealing the death of bastard child | 0 | 1 | 0 | 1 | 1 | 0 | 1 | 0 | 4 |
| Incest | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Crime against nature | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Highway robbery, } and assaults, with } intent to commit } | 0 | 4 | 2 | 0 | 0 | 0 | 3 | 1 | 10 |
| Arson and other burnings | 0 | 1 | 0 | 0 | 1 | 2 | 0 | 2 | 6 |
| Burglary, accessory } to, and attempts } to commit | 3 | 1 | 0 | 2 | 5 | 2 | 5 | 2 | 20 |
| Horse stealing | 6 | 9 | 16 | 15 | 13 | 2 | 5 | 17 | 83 |
| Larceny | 37 | 40 | 75 | 61 | 67 | 104 | 56 | 89 | 529 |
| Receiving stolen goods knowing, &c. | 0 | 2 | 0 | 3 | 0 | 2 | 1 | 4 | 12 |
| Perjury | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 2 |
| Counterfeiting the coin, and forgery, } uttering and publishing base coin } and forged papers, &c. | 5 | 9 | 3 | 7 | 6 | 7 | 1 | 1 | 39 |
| Bigamy | 1 | 1 | 0 | 0 | 1 | 0 | 1 | 0 | 4 |
| Fraud, deceit, conspiracy, cheat, &c. | 0 | 0 | 2 | 2 | 2 | 1 | 1 | 0 | 8 |
| Misdemeanors, not specified | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 3 |
| | 56 | 72 | 105 | 93 | 101 | 123 | 76 | 119 | 746 |

TABLE IV.

Enumeration of crimes, from 1802 to 1810, a period of eight years.

| CRIMES. | 1802 | 1803 | 1804 | 1805 | 1806 | 1807 | 1808 | 1809 | Total. |
|--|------|------|------|------|------|------|------|------|--------|
| Murder in the first degree | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 2 |
| Murder in the second degree | 2 | 7 | 0 | 1 | 4 | 1 | 1 | 0 | 16 |
| Attempt to murder by poison | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Assault with intent to murder | 1 | 0 | 1 | 2 | 0 | 3 | 8 | 0 | 15 |
| Manslaughter | 1 | 1 | 3 | 0 | 0 | 2 | 0 | 0 | 7 |
| Mayhem | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| Rape, and assaults with intent to commit | 0 | 0 | 0 | 0 | 0 | 0 | 5 | 0 | 5 |
| Concealing death of bastard child | 2 | 2 | 0 | 0 | 2 | 1 | 0 | 0 | 7 |
| Incest | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| Crime against nature | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Highway robbery, and assaults with intent to commit | 0 | 0 | 0 | 1 | 0 | 1 | 3 | 0 | 5 |
| Arson and other burnings | 1 | 9 | 4 | 1 | 0 | 1 | 0 | 3 | 19 |
| Burglary, accessory to, and attempts to commit | 3 | 10 | 2 | 4 | 6 | 18 | 5 | 9 | 57 |
| Horse stealing | 12 | 3 | 2 | 2 | 5 | 4 | 5 | 7 | 40 |
| Larceny | 54 | 64 | 54 | 56 | 94 | 75 | 100 | 84 | 581 |
| Receiving stolen goods knowing, &c. | 2 | 4 | 2 | 2 | 2 | 2 | 1 | 0 | 15 |
| Perjury | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 2 |
| Counterfeiting the coin, and forgery, uttering and publishing base coin and forged papers, &c. | 2 | 5 | 3 | 4 | 5 | 4 | 10 | 12 | 45 |
| Bigamy | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 |
| Fraud, deceit, conspiracy, cheat, &c. | 0 | 2 | 2 | 6 | 0 | 3 | 5 | 0 | 18 |
| Misdemeanors not specified | 0 | 0 | 1 | 3 | 2 | 3 | 3 | 3 | 15 |
| | 80 | 108 | 76 | 82 | 121 | 119 | 146 | 120 | 850 |

APPENDIX.

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TABLE V.

Enumeration of crimes, from 1810 to 1816, a period of six years.

| CRIMES. | 1810 | 1811 | 1812 | 1813 | 1814 | 1815 | Total. |
|---|------|------|------|------|------|------|--------|
| Murder in the first degree | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Murder in the second degree | 1 | 1 | 4 | 4 | 3 | 4 | 17 |
| Attempt to murder by poison | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| Assault with intent to murder | 0 | 0 | 0 | 2 | 1 | 1 | 4 |
| Manslaughter | 3 | 4 | 0 | 1 | 4 | 0 | 12 |
| Mayhem | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Rape, and assaults with intent to commit | 0 | 1 | 0 | 0 | 2 | 2 | 5 |
| Concealing death of bastard child | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Incest | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Crime against nature | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Highway robbery, and assaults with intent to commit. | 3 | 2 | 1 | 1 | 6 | 2 | 15 |
| Arson, and other burnings | 2 | 1 | 3 | 0 | 3 | 3 | 12 |
| Burglary, accessory to and attempts to commit | 9 | 10 | 7 | 12 | 2 | 8 | 48 |
| Horse stealing | 3 | 4 | 3 | 0 | 1 | 6 | 17 |
| Larceny | 65 | 132 | 96 | 119 | 105 | 189 | 706 |
| Receiving stolen goods knowing, &c. | 0 | 0 | 0 | 1 | 0 | 3 | 4 |
| Perjury | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Counterfeiting the coin, and forgery, uttering, and publishing base coin and forged papers, &c. | 6 | 5 | 3 | 9 | 6 | 6 | 35 |
| Bigamy | 1 | 1 | 0 | 0 | 0 | 0 | 2 |
| Fraud, deceit, conspiracy, cheat, &c. | 0 | 4 | 0 | 1 | 0 | 0 | 5 |
| Misdemeanors not specified | 3 | 1 | 0 | 0 | 2 | 1 | 7 |
| | 97 | 166 | 117 | 150 | 135 | 225 | 890 |

TABLE VII.

Gives a circumstantial view of the state of the penitentiary and prison, on the 19th July, 1816, specifying the number of convicts then confined, from each county; the several employments at which they were placed, the number at each employment; and the number of untried persons at that period.

STATE OF THE PENITENTIARY,

JULY 19th, 1816.

Convicts, whose term of service is one year and upwards.

| COUNTY. | No. | COUNTY. | No. | EMPLOYMENT. | No. |
|------------------------|-----|--------------------|-----|--------------------------|-----|
| 1 Philadelphia..... | 281 | 26 Adams..... | 1 | Sawing stone, and the | |
| 2 Bucks..... | 11 | 27 Centre..... | 1 | work connected with | |
| 3 Chester..... | 21 | 28 Beaver..... | 0 | it..... | 166 |
| 4 Lancaster..... | 12 | 29 Butler..... | 0 | Carpenters..... | 4 |
| 5 York..... | 12 | 30 Mercer..... | 0 | Tailors..... | 11 |
| 6 Cumberland..... | 0 | 31 Crawford..... | 1 | Shoemakers..... | 36 |
| 7 Berks..... | 8 | 32 Erie..... | 1 | Brushmakers..... | 6 |
| 8 Northampton..... | 10 | 33 Warren..... | 0 | Cabinet-makers..... | 1 |
| 9 Bedford..... | 2 | 34 Venango..... | 0 | Blacksmiths..... | 5 |
| 10 Northumberland..... | 4 | 35 Armstrong..... | 0 | Chipping Logwood..... | 4 |
| 11 Westmoreland..... | 5 | 36 Indiana..... | 0 | Cutting Fur..... | 19 |
| 12 Washington..... | 8 | 37 Jefferson..... | 0 | Wavers..... | 21 |
| 13 Fayette..... | 1 | 38 McKean..... | 0 | Turners..... | 2 |
| 14 Franklin..... | 12 | 39 Clearfield..... | 0 | Coopers..... | 2 |
| 15 Montgomery..... | 1 | 40 Potter..... | 0 | Spinning, Reeling, &c. | 40 |
| 16 Dauphin..... | 8 | 41 Tioga..... | 2 | Sewing and Knitting..... | 6 |
| 17 Luzerne..... | 3 | 42 Cambria..... | 0 | Cooking, baking, at- | |
| 18 Huntingdon..... | 1 | 43 Bradford..... | 0 | tending on sick, la- | |
| 19 Allegheny..... | 6 | 44 Saquehanna..... | 0 | bourers, and those | |
| 20 Mifflin..... | 1 | 45 Schuylkill..... | 0 | confined in cells..... | 84 |
| 21 Delaware..... | 2 | 46 Lehigh..... | 0 | | |
| 22 Lycoming..... | 1 | 47 Union..... | 3 | | |
| 23 Somerset..... | 0 | 48 Columbia..... | 4 | | |
| 24 Greene..... | 0 | | | | |
| 25 Wayne..... | 0 | | | | |
| | | | | Total..... | 407 |

Of which were—Whites, 231 } 344 Males,
 Negroes and mulattoes, 176 } 407 { 63 Females,
 Additional from the city and county of Philadelphia bring those
 whose time of service does not amount to one year..... 25
 Untried prisoners and vagrants..... 283
 And amount brought forward..... 407

Total..... 718

No. IV.

*A View of the New-York State Prison. By a Member
of the Institution.*

SECTION I.

DESCRIPTION OF THE BUILDINGS, WALLS, AREA, &c.

THE Prison is situated on the east bank of the Hudson river, at the distance of about one mile and an half from the City-hall. The buildings and courts comprise four acres of ground. A more pleasant, airy, and salubrious spot could not have been selected in the vicinity of New-York. The west front overlooks the river, into which a spacious and convenient wharf has been extended beyond the prison wall. The upper apartments command an extensive view of the city, harbour, the adjacent islands, and the surrounding country. The principal front is on Washington-street, and the center is projected and surmounted by a pediment: a correspondent projection and pediment adorn the west front. The whole length of the front is 204 feet, from each end of which projects a wing, extending towards the river; and from these wings spring two other wings in the same direction, but of less extent. The edifice consists of a basement, and two principal stories of fifteen feet each. The roof is covered with slate, and the pediment or center is crowned with a handsome cupola, in which is a bell to sound the alarm when any disturbance or accident takes place. The walls are composed of free-stone, and the windows are grated with iron inlaid with steel, and hardened. The whole fabric is of the Doric order, and contains fifty-four rooms, 12 feet by 18, for prisoners, sufficient for the accommodation of eight persons in each. In the north wing is a large room, with galleries, neatly finished as a chapel, where divine service is regularly performed every Sunday. A corresponding room in the south wing is used as a dining-hall, and a like-room

above this one is occupied by the shoemakers. The apartments in the center of the building are appropriated to the use of the inspectors and agent, the keeper, his family, and assistants.

The women have hitherto been confined in the north wing of the prison, on the front ground-floor, and under the chapel. They have a court-yard entirely distinct from that of the men, with whom they are allowed on no occasion to communicate or to hold conversation.

At the end of each wing, and adjoining thereto, is a building of stone, two stories high, the upper part of which is formed into solitary cells, eight feet long, six feet wide, and fourteen feet high: the windows are eight feet from the floor. Each building contains seven cells.

The halls run through the prison from the end of one wing to that of the other, and, with a room, occupy the width of the building; but do not open into the cells. The rooms in which the prisoners lodge are on the outside of the prison in every part, except the center, the dining-hall, and the chapel. The halls are numbered from one to nine, beside the hospital, which occupies the second floor of the north-west wing. The rooms are also numbered from one to thirty in the front, and from one to twelve in each of the farther wings. The ground-floor of the first south-wing, immediately under the dining-hall, forms the kitchen for the prisoners; which has a correspondent room in the first north-wing, under the chapel, occupied by the women.

The space of ground between the west part of the prison and the west wall, is divided into two yards, denominated the upper and the lower yard. The upper yard contains all the ground which is enclosed on three sides by the west-front of the prison and the two wings; and is separated from the lower yard by the uppermost workshop, and by a palisade fence running parallel with the east-side of it to the extremity of each wing of the prison. In the lower yard are the principal workshops. All the prisoners, except the shoemakers, those who are sick, the women, and some few who are selected as clerks, gardeners, cooks, and waiters, are here employed. The three chief buildings in this yard run

parallel with the main body of the prison, and are occupied by the prisoners as places of labour during the day time : they are built of brick. The eastern is called the upper, the next the middle, and the western the lower workshop. The upper shop is 106 feet in length and 20 in breadth, and for the distance of 60 feet in the middle part of it is three stories high. At each end is an addition of 23 feet, in the same direction, only one story in height. The middle shop is 85 feet long and 22 wide, two stories high. The lower shop is 200 feet long and 20 wide, and is also two stories high. In this yard are two pumps with good water for common uses ; and another pump supplies a large bason with water from the river, in which the prisoners frequently bathe during the warm season, for the purposes of cleanliness and health. Beside these conveniences, in the upper yard is a large well with two pumps, which afford at all times an abundant supply of excellent water for every purpose. Both yards are paved, and have suitable drains for carrying off the filth.

The ground within the walls on the north side of the prison is denominated the north-yard. In this yard there is a commodious building occupied as a store-house for brushes, chair-stuff, lumber, and other bulky articles ; also an excellent saw-pit, a cellar, ice-house, smoke-house, fire-engine-house, pump, &c. Part of the yard is likewise allotted for storing fuel, and other necessities for the use of the prison.

The area on the south-side of the prison is appropriated to a garden, which is in excellent order, and produces abundance of vegetables, medicinal herbs, &c. for the use of the prison, the keeper, and his family.

The entire of these grounds and buildings is surrounded by a wall of stone, twenty-three feet high on the river side, and fourteen feet high in front, extending in length on one side five hundred feet, and in breadth two hundred and seventy-nine feet. The original cost of the ground, buildings, and wharf, was two hundred and eight thousand eight hundred and forty-six dollars.

SECTION II.

OF THE GOVERNMENT AND OFFICERS OF THE PRISON.

That principle of humanity and benevolence which produced an amelioration of the criminal code in the establishment of this institution, operated also in organizing the *government* and *internal police* of the prison. Corporal punishment for any offence was strictly prohibited; and humane, civil, and mild treatment towards the prisoners, accompanied with useful instruction and advice, enjoined. The experiment was to be made, whether justice, tempered by clemency and humanity, could not govern a numerous body of prisoners; and whether offenders might not be reclaimed by kind treatment, and by the inculcation of industrious habits and moral sentiments. In the prosecution of this benevolent scheme, much credit is due to the Society of Friends, especially in the early part of the establishment; and it will be seen in the course of the present work, how far the expectations of the advocates of the prison have been realized, and with what success the experiment has been made.

The government of this institution has been committed by the Legislature to a body of men appointed for that purpose, who are denominated *Inspectors*. These Inspectors, with the Judges of the Supreme Court, the Mayor and Recorder of the city of New-York, the Attorney-General, and the Assistant Attorney-General, are empowered to make certain important, permanent, and standing regulations for the internal government and management of the prison, and of the guard. The regulations are, however, but few in number; and of late there has been little or no occasion for the exercise of the powers vested in this body. In delineating the duties of the several officers, we shall give a more particular account of the principles which govern this establishment.

OF THE INSPECTORS,

This office emanates from the Council of Appointment, and is held during pleasure. There are seven Inspectors, a

majority of whom constitutes a quorum for transacting any business. The statute requires their attendance once at least in every month, but they usually meet every other Thursday, to consult on the affairs of the prison, and adopt such regulations as may be deemed proper. Two of their number are selected as a *visiting committee*, who act in that capacity for a month, and visit the prison twice a week. One of these is appointed two weeks before the other, so that a change is effected every fortnight. They relieve from temporary punishment, and attend to the particular occurrences and affairs of the prison. The frequency of their visits, and the attention which they bestow on the objects of their inquiry, enable them materially to facilitate and assist in discharging the duties of the Board of Inspectors.

The entire custody of the prison, and of the convicts, is committed by law to the inspectors, who are authorised to appoint, and remove at pleasure, the agent, clerks, keepers, and physicians. It is also their province to inquire into and inspect the general state of the prison; to see that the keepers and other officers are attentive and faithful in the discharge of their several duties; that cleanliness, decency, and order are every where maintained; and that the prisoners are treated with justice and humanity. They are to listen to the complaints of the prisoners, and to notice their communications; to admonish the bad, applaud the good, and *encourage all to amendment and reformation*; and finally, to give them such advice as may awaken virtuous sensibility, and promote their moral and religious improvement.

Experience has shown that this occasional intercourse not only tends very much to the encouragement of the well-disposed, but that it softens the hearts of such as are grown obdurate by reiterated crimes. While it represses the ferocious insolence of the hardened offender, it tends to tranquilize the tumultuous feelings of despair; and instead of gloomy indifference, depression, and contempt, it excites emotions of hope and fear, attention and respect, which prepare the mind to receive impressions favourable to future amendment.

A regular account of the purchases and sales, of the re-

ceipts and expenditures, is kept by the agent; and a report is annually made by the inspectors to the legislature, of the condition of the prison, the number of convicts received and discharged during the year, and those remaining in confinement; of the sums expended in the maintenance of the prisoners, in the purchase of raw materials, tools, &c., and of the moneys received from the State, and those arising from the sale of manufactured articles.

The inspectors receive no salaries. Selected from among the discreet and judicious citizens of New-York, and actuated by principles of benevolence, and a love of justice and humanity, they voluntarily contribute their services, and seek no other recompence than the reflection of having exerted themselves to promote the good of society.

OF THE AGENT.

The agent is appointed by the inspectors, to whom, and to the State, he is immediately accountable for his official conduct. He is chosen with a view as well to his moral character and ability, as to his knowledge in mercantile and manufacturing concerns. His salary is two thousand dollars a year.

All contracts and dealings on account of the prison are to be transacted by and in the name of "the agent of the State Prison;" and the law provides, that "by that name he and his successors in office are to be known, and capable of suing and being sued, pleading and being impleaded," &c.

By a statute passed the 21st of May, 1812, it is declared to be the duty of the agent "to attend daily to the prison; to view and superintend all the business thereof, and to examine if the keepers have been watchful and vigilant; to inquire generally into the state of the prison, and the health, conduct, and safe-keeping of the prisoners; to employ them at useful work in such manner as will be most beneficial to the public, and suitable to their various capacities; to purchase their provision, and articles for their clothing and bedding, and the provision for the keepers; also to purchase all the raw materials to be manufactured;

“ and to render to the visiting inspectors, for their examination, a weekly account thereof.” It is likewise the duty of the agent “ to superintend all the manufacturing and mechanic business that is carried on within the prison ; to receive all the manufactured articles, and to dispose of them ; and to render to the visiting inspectors, for their examination, a weekly account thereof, specifying each article manufactured, and the whole amount of the same.” He is also “ annually, on or before the third Monday in February, to render to the comptroller, on oath or affirmation, an inventory of all and each kind of goods and raw materials on hand, and an accurate account of all moneys received and expended in purchasing raw materials for the necessary support of the prisoners, with sufficient vouchers for the same ; also a specific account of all articles manufactured or made in the year past, and the value of each, in such a manner that a correct and comprehensive view of the whole transactions may be taken, and the proper application of the raw materials may be seen by the articles manufactured therefrom,” &c. &c.

It is expected from the agent that he should be intimately acquainted with the particular concerns of the prison, and be ready to advise and direct in a variety of things which naturally and daily occur.

“ The agent may also, by the consent of the inspectors, appoint such person or persons as may be necessary, from time to time, to act under his direction as factor or factors, who shall, before he or they enter on the duties of his or their appointment, give such security to the said agent as he may require, for the faithful performance of the duties of such factor or factors, and who shall aid in the disposal of the goods manufactured in the prison, and make a monthly report to the said agent of all sales by him or them made, and of the proceeds thereof ; and shall also at the same time account and settle with the said agent for the same to his satisfaction ; for which services he or they shall be allowed a commission not exceeding seven per cent.”

OF THE CLERKS.

The clerks of the prison are appointed by the inspectors during pleasure. They have a salary of six hundred dollars a year, and may victual at the prison. Their duty is to transcribe the minutes and orders of the board of inspectors; to assist the agent in all his official duties; to keep the accounts; and to prepare the necessary annual exhibit, consisting of abstracts and statements of the purchases, sales, manufactures, inventories, &c., for the use of the comptroller and the legislature. Besides the clerks, four of the convicts are usually employed in a separate office, to assist in posting books, &c.

The accounts of the prison are kept in the *Italian method*, commonly called *double entry*; and are accompanied with the necessary incidental and subsidiary books.

THE KEEPER, HIS DEPUTY AND ASSISTANTS.

These officers, as already remarked, are appointed by the inspectors, and are accountable immediately to them for their official conduct. The principal keeper is allowed a salary of eight hundred and seventy-five dollars a year, with board, and the necessary apartments for himself and his family, in the prison. He is not permitted to receive fees or perquisites of any kind.

The keeper being an officer on whom the safety of the prison and the success of the institution essentially depend, care is taken to select a person of respectability, and possessed of qualities adequate to the difficult and arduous duties he is to perform. Experience proves that he should be of a sound understanding, quick discernment, and ready apprehension; firm and resolute; of commanding manners, yet mild and conciliating; a lover of decency and order, and discreet in all his conduct. While the unhappy persons committed to his care, and subjected in the first instance to his power, are regarded as susceptible of being influenced by their fellow men, and capable of reformation, he should never treat them with harshness, cruelty, or caprice, nor thwart or irritate them in trivial matters; but on all occasions, while he makes himself feared, he should, by a mild and temperate behaviour,

by visiting the sick, inquiring into their wants, and occasionally supplying them, and by speaking kindly to those at work, endeavour to gain their affection and respect. He should be always on his guard, particularly against the machinations of the wicked and depraved, who, it may be expected, will be ever plotting some means of violence and escape: yet, as he should never forget the possibility of their amendment, so he should ever exert himself to promote it.

He ought, however, to be prompt in punishing every offence against the rules and orders of the prison, and should suffer no improprieties of conduct to pass without animadversion; for the slightest negligence in this respect might lead to greater offences, and be attended with serious consequences. In the infliction of punishment he should be calm and inflexible; without anger; so that he may convince the offender that he acts not from passion or vengeance, but from a sense of justice.

He should frequently visit every part of the prison, the work-shops, kitchen, hospital, &c., so that he may detect any irregularities that may be committed, direct the punishment, and make his report thereof to the visiting committee.

No keeper, deputy, or assistant keeper, is permitted, upon any occasion or under any pretence whatever, to strike a prisoner, unless in an attempt to escape; in which case they are justified in defending themselves, and in endeavouring to secure the offender.

At each meeting of the inspectors, the keeper presents a written report, specifying the number of convicts in the prison, and their various employments; how many have been received or discharged; the number of the sick, and of those who are in solitary confinement; and in general all the occurrences which have taken place in the prison since the preceding meeting.

OF THE DEPUTY KEEPER.

The deputy keeper is allowed a salary of six hundred dollars a year. He delivers all the clothes to the prisoners, and has the charge of all the household furniture, provisions, &c. He should daily inspect the gratings of the windows, the walls, floors, &c. to learn if any attempts have been made to escape

in any part of the prison; and should frequently visit the kitchen and work-shops, as well to see that no disorders are committed, as that the Assistant Keepers are vigilant, faithful, and attentive to their duties. In case of vacancy in the office of Keeper, or during the absence of that officer, he is, *ex officio*, invested with all the powers, and is to perform all the duties appertaining to that office. He exhibits a monthly statement to the Agent of the provisions expended at the Keeper's and Assistant Keepers' tables, and what has been consumed in the hospital.

OF THE ASSISTANT KEEPERS.

There are usually eighteen Assistant Keepers, who have each a salary of three hundred and sixty-five dollars a year, with diet, lodging, and washing. Two are occupied in carting supplies of provisions, raw materials, manufactured goods, &c. for the prison, in driving the carriage, &c. The other sixteen have separate stations assigned them by the Keeper, and alternately keep continual watch, night and day. It is their peculiar duty to see that all the orders and regulations respecting the prison are strictly observed; that all the apartments, halls, clothing, bedding, &c. are kept clean; that the prisoners are attentive to their respective occupations; and that no noise, swearing, indecent language, singing songs, wrestling, fighting, wrangling, or other disturbance, is permitted. In case of any misbehaviour, however trifling; they must take the offenders, without delay or contention, to the Keeper, who will, on examination, direct such temporary punishment, agreeably to the regulations of the institution, as he may think they deserve.

The Assistant Keepers perform the duties of Turnkeys, and are without arms of any kind; no corporal punishment being admissible for offences of any description.

As the prisoners are punished for indecent language and misbehaviour, it is essential, and expected, that the Keeper, the Deputy Keeper, and the Assistants, wholly abstain from every impropriety of speech and conduct; for it is in vain to expect good manners in the prisoners, when those who are set over them exhibit examples of the very vices they are re-

quired to chastise and correct; and hence, it is the duty of the Inspectors to inform those who are appointed Keepers, that if they be found guilty of misconduct or any vicious practices, they shall be immediately dismissed.

OF THE STATE PRISON GUARD.

Previous to the year 1801 several escapes had taken place from the prison; in consequence of which the Legislature, in the beginning of that year, authorised the Governor to raise a guard, which should be denominated "the State Prison Guard." It was immediately organised, and has continued with little alteration in its first regulations to the present time. It is under the direction of the Mayor of the city of New York, and is to obey his orders, and to be vigilant in guarding the prison, and in arresting those who may attempt to escape.

The State Prison Guard consists of one captain, one serjeant, two corporals, one drummer, one fifer, and twenty privates, who must all be native Americans, and not less than twenty-one, nor more than forty years of age, except the captain. They are enlisted for the term of three years at least, but liable to be discharged sooner by the person administering the government of the state, provided he shall deem such a step expedient.

The Captain of the Guard receives forty-eight dollars per month; the serjeant twenty-five dollars; the corporals, drummer, and fifer, twenty-two dollars; and the privates nineteen dollars. Besides his pay, the Captain is allowed apartments in the barracks; and the non-commissioned officers and privates are furnished with uniform clothing, arms, accoutrements, and ammunition, at the charge of the state. They are all victualled at their own expense.

The Guard is stationed in convenient barracks near the walls of the prison. Four turrets or watch-houses are erected, adjoining to, and on the outside of the prison walls, at right angles, and in view of each other: they overlook the whole of the interior courts and work-shops. In each of these turrets a soldier is always on duty as a sentinel. Eight of these soldiers perform this round of duty for twenty-four hours,

one half of them relieving the other half every two hours throughout the day and night. On observing any attempt to break the prison, or any unusual disorder amongst the prisoners, or the appearance of fire endangering the prison or work-shops, they give the alarm by discharging their muskets; in which case the drum immediately beats to arms, that every necessary preparation may be made for the better protection and security of the place.

The annual expense of this guard is about eight thousand five hundred dollars. It is well equipped; its regulations are good, and its discipline excellent. Experience has proved its adequacy to all the purposes intended by its establishment.

OF THE PHYSICIANS.

The Inspectors are authorised by law to appoint such a number of visiting Physicians and Surgeons as they shall deem necessary, who receive no compensation for their services, unless in extraordinary cases, when the Inspectors have a discretionary power to make such allowances as shall appear just and proper. Three visiting Physicians and one Surgeon are at present attached to the institution. Of this number, one attends the Guard as their Surgeon; and for this service he receives an annual compensation of seventy dollars. These three Physicians visit the prison hospital in monthly succession, once a week, or oftener if necessary, and give such instructions and prescriptions as the cases presented to them may require. Any changes in diet, dress, or employment, which they may think necessary to the general health of the prisoners, are represented by them to the Inspectors, who, approving of them, direct them to be carried into effect, so far as may consist with the principles of the institution.

As accidents may sometimes happen which demand immediate medical aid, and as humanity dictates a daily and uniform attendance upon the sick, a suitable person, who is generally a student or young practitioner of physic, is recommended by the visiting Physicians, for the approbation of the Inspectors, to reside constantly in the prison, in the capacity of a *Resident Physician*. His term of residence is one

year, and he is allowed diet and lodging. In the absence of the visiting Physician, he daily prescribes for the sick ; and when requested he visits the solitary cells, and occasionally every other part of the prison. Upon his advice the Keeper relieves a prisoner from the cells, or from other punishment, when, in the opinion of the resident or visiting Physician, sickness renders such punishment improper. The resident Physician makes a weekly report to the Inspectors, of the state of the hospital ; and, under his direction, a book is kept, as a medical register ; in which are inserted the names of the sick, their ages, occupations, and diseases ; the commencement, duration, and termination of their maladies ; the number cured or relieved, and the cases that terminate fatally. From this book an annual table is formed, comprising a general view of the occurrences in the hospital department for the year past.

SECTION III.

OF THE PRISONERS ; THEIR GENERAL TREATMENT—OCCUPATIONS—DRESS—DIET—PUNISHMENT—MEDICAL ASSISTANCE—MEANS OF REFORMATION.

On the reception of a convict into the prison, his hair is cut close, and he is immediately stripped of all his clothes, thoroughly washed and cleansed, and dressed in a new shirt, trousers, shoes, and stockings—the uniform of the prison ; but he usually receives his own hat, vest, and handkerchiefs, as soon as they have been cleansed. He is then examined by the Keeper, and his name, place of nativity, age, occupation, common residence, crime, time and place of conviction, sentence, and a description of his person, are written in a book kept for that purpose. The Inspectors also collect all the information that can be obtained of his former character and course of life, the circumstances attending his trial, with the evidence of his guilt, and indeed whatever may enable them to form a judgment of the degree of his depravity. This knowledge is deemed necessary to guide them in their treatment of the prisoner during his confinement, and to

prevent a premature or mistaken indulgence or severity towards him. Immediately after his examination the prisoner commences the course of labour assigned him by the Agent. If he be ignorant of the branches of industry established in the prison, which is often the case, the Agent directs him to be instructed; and he is compelled to learn of those who are already skilled in the particular manufacture to which he is in a manner apprenticed.

Under the immediate inspection of an Assistant Keeper, the prisoners, when in health, are kept sufficiently close to their work to fulfil the sentence which subjects them to hard labour. Continual employment, sobriety, cleanliness, and regularity of conduct, it is supposed, may in time become habitual. In such an event, punishment has the desired effect: the criminal is reformed; and his example in suffering produces a salutary dread on the minds of others.

The rooms are unlocked at six o'clock in the morning in summer, and at day-light in winter, and the prisoners are summoned to their respective occupations. Two Assistant Keepers are constantly with the shoemakers in the upper story of the south wing; nine are likewise continually with the other male prisoners in the different workshops, and one with the women. At the hour of eight in summer, notice is given by the sound of a bell, and the Assistant Keepers conduct the prisoners to breakfast, prepared for them in their respective eating-halls. To prevent noise or confusion about places, each man occupies the same seat every day at his meals. After being seated a short time, they commence eating at a signal given by the Keeper. Their meals are taken in silence; and when all are observed to have finished, the prisoners are conducted by the Keepers to their respective stations. The same order is observed at dinner and supper. The dinner is taken at one o'clock in summer, and the supper at six. Immediately after supper the prisoners are locked up in their several apartments. When day-light disappears, a small lamp is lighted in each room, and at the same time the halls are likewise illuminated by lamps. The lights in the rooms are extinguished at nine o'clock in summer, and at eight in the winter season. The drum beats the tattoo at these times respectively, and immediately the prisoners are

obliged to go to bed, and remain perfectly silent until the beating of the drum in the morning. Each room is well ventilated by means of a twenty-four light window, of ten by fourteen glass, on the outside, and a grated door, which opens into the halls and corridors, giving a view of the room to the Keeper who is on the watch.

As the prisoners are at all times to receive civil treatment, the general deportment, language, and manners of the Keepers towards them, is required to be civil, dignified, and affable. The prisoners are therefore implicitly to obey ; yet the orders ought to be given in a mild, but firm and dispassionate tone and manner.

Silence is preserved during the hours of labour. No object must engage the attention of the workman, but that of his employment. Unremitting care, as well as diligence, is required ; and he who excels in any particular branch of business, is sure of being noticed by the officers of the institution. And although the prisoners are not allowed to speak to those whom curiosity may induce to pass through the work-shops, yet the meritorious are permitted by the Agent occasionally to see and converse with their connections and acquaintances, in the presence of a Keeper, in what is called the middle-hall.

OCCUPATIONS.

Two years elapsed after the prison was opened for the reception of convicts, before the outer walls were built, and the work-shops completed, so that employment could be found for all. The first kind of labour introduced was the manufacture of shoes and boots. Under the instruction of those who were skilful shoemakers on their entrance, such as were before wholly ignorant of the trade have generally become excellent workmen with surprising rapidity. Indeed, the same observation, as to improvement in mechanical knowledge, will apply with equal propriety to those who are employed in all the different shops. From seventy to ninety males have been usually engaged in the shoemaking business, from its commencement to the present time. In consequence of their sedentary occupation, they are allowed occasionally to walk in the court-yard, for the benefit of air ; and if their

health be materially affected by sitting at the work-bench, they are transferred to some more active employment.

OF WEAVING.

This branch of business has grown greatly within the last three years. Seventy looms are usually in operation. Besides manufacturing all the clothing for the prison, linen and cotton yarn, &c. is taken in to be wove into gingham, cloth, shirting, &c. Materials for coverlids and rag carpeting are also received for weaving; and during the year 1813 there was fabricated to the amount of seventy-three thousand yards, exclusive of coverlids; and of girth, suspender, and boot webbing, about twenty-two thousand yards were woven.

BRUSH-MAKING.

The business of brush-making has also increased greatly within the last four years, as may be seen by examining the tables in the Appendix. From thirty to forty men and boys are generally employed in this department; and it may be asserted, without fear of contradiction, that for beauty and fabrication, the brushes manufactured at the prison are not excelled in any part of the world.

TURNERS.

This may also be termed a profitable branch of business. At present thirty-eight men are engaged at the turning lathes. Many of the chair-makers in the city are supplied from the prison with their materials; and customers resort to it also for those articles from several towns bordering on the Hudson; from New-Haven and Hartford, in Connecticut; and from Providence and Newport, in Rhode-Island. In this factory are likewise made large and small spinning-wheels, cloth-pins, quill-wheels, bobbins, and spools for weavers; and indeed almost every thing appertaining to this branch can be had by applying for it.

COOPERS.

The product of the coopers' shop has done credit to the establishment. A considerable portion of the work is in

cedar, and consists of churns, bathing-tubs, wash-tubs, pails, and coolers, with brass, iron, and wooden hoops, &c. &c.

BLACKSMITHS.

The blacksmiths are not numerous : they occupy only four fires, one half of which are generally engaged for customers, and the others are employed in making and repairing machinery for the work-shops.

TAILORS.

The clothing for the convicts is all made in the tailors' shop ; where also much work is done for the Keepers, and for many families in the neighbourhood ; all of whom pay a fair price for whatever services are rendered.

PAINTERS.

Three or four men are usually employed in painting ; and, as far as it goes, this branch is considered both useful and profitable.

CARPENTERS.

About twenty men are usually engaged in this department ; but this number includes also those who are sometimes employed in making machinery and in cabinet work. Wheelbarrows, swifts, safes, tables, and indeed almost every thing appertaining to the business, are manufactured. All the repairs, &c. about the building, are done by them. This may be called a profitable branch.

CARDING AND SPINNING.

In one of the shops there are two carding machines, one spinning, one roping, and a picking machine ; all turned by means of drums connected with a large hand wheel. The raw material for the clothes of the prison is carded and spun in this shop, whence it is sent to the weaving shop, where it is fabricated into cloth, which is then taken to the tailors' shop, to be made into clothing for the prisoners ; thus completing the round of manufacture from the first operation of the raw material to the fitting of the garments for the wearer.

WHIP-MAKING.

This factory, which was introduced about two years since, employs from three to four men, who are engaged in making tandem, coach, chair, hunting, and horse whips, and a variety of other kinds; all of which are as well finished as any imported.

Mat-making, oakum-picking, point and gasket making, spinning on the large and small wheel, &c. are performed in a large shop in the second story, above the weavers, where prisoners on their first entrance are employed, and kept until they can be properly accommodated. From this shop the places of those are supplied who become sick or are discharged.

DRESS.

The dress of the prisoners in winter consists of a jacket and trousers of striped woollen cloth, and in summer of cotton and linen, striped. *Second comers* have one side of the jacket and trousers brown; and *third comers* usually have a tri-coloured cap, blue, red, and white, with the figure 3 in front. The utmost cleanliness comporting with their employment is strictly enjoined.

DIET.

Usually the convicts breakfast on cocoa made from the shell, sweetened with molasses; they dine on soup made from coarse pieces of beef, heads, shins, &c. thickened with rice or beans; and once a week they have a dinner of pork; and generally they have as many potatoes as they want. Their suppers consist of mush and molasses, or bread and molasses.

In addition to the above, and in order to encourage and reward industry, the agent has given premiums of one pint of wholesome beer to each man for over-work to a certain extent. This arrangement has been approved by the Board of Inspectors, and is found to stimulate to diligence and exertion.

FUEL.

Is an article of great consumption in the prison. Many

attempts have been made to reduce this expense, by constructing flues, &c. &c. but this branch of economy is still susceptible of improvement; and it is hoped, that before another winter, *steam-pipes* will be introduced, which, it is expected, will save much in this very necessary article of expense.

THE HOSPITAL.

This department, from the increase of prisoners, requires some new modification. The present arrangement is good, but the rooms are insufficient. The hospital kitchen, however, is spacious, and well furnished. The diet, medicine, and other comforts for the sick, are not surpassed by any similar institution in the world. Milk-porridge, chocolate, tea, coffee, white bread, butter, wine, ale, rice, mutton and veal soup, &c. &c. compose their general diet. The drug shop is always amply supplied with the best of medicine. The tables in the Appendix exhibit a view of the prevailing diseases.

SCHOOLS.

Among the convicts there are always many men of handsome literary acquirements. In winter the most capable of these are employed in instructing the boys, and many of the uninformed men, whose conduct has been meritorious, in reading, writing, and arithmetic. Their improvement in many instances surpasses expectation; and much good, it is hoped, will be derived from this branch of employment.

WORSHIP.

The apartment appropriated for Christian worship has been noticed in a former part of this work; it is a fine airy room, and will contain about six hundred persons. Every Sunday the chapel is opened for divine service. The Rev. John Stanford is at present the chaplain. It is his duty to supply the desk once a month, and to visit the sick weekly; and for these services a small compensation is allowed. On other Sundays service is performed by one of the clergy of different denominations in the city of New-York. The Episcopal, the Presbyterian, the Baptist, and the Methodist

clergy alternately attend, and perform this duty gratuitously. During worship the general deportment of the convicts is decent and correct: many of them join in the responses and in singing, with apparent zeal and devotedness to religious exercise; and fond hopes are entertained that a perseverance in this course will have a lasting and salutary effect on many, after the period of their confinement shall have expired.

Much credit is due to the chaplain for his unwearied and persevering exertions in procuring for the prisoners the advantages which a regular performance of divine worship is calculated to afford. And not only to the convicts are these advantages extended: the neighbourhood also partake of them, many persons in the vicinity being in the constant practice of attending worship at the prison. To the same exertions the school establishment in this penitentiary is also greatly indebted. In fine, the indefatigable zeal of the Rev. Mr. Stanford in attempting to better the temporal state of the convicts, and to promote their eternal welfare, is deserving of much commendation.

REFORMATION.

The end of human punishments is the prevention of crimes. In the endeavour to attain this end, three things are to be considered; the amendment of the offender; the deterring of others by his example; reparation to society and the party injured. Of these objects, the first, without doubt, is of the highest importance. Society cannot be better secured against crimes, than by eradicating the evil passions and corrupt habits which are the sources of guilt. The operation of punishment, as a terror to others, is generally considered as momentary and uncertain in its effects; for men are often found so regardless of the future, as to perpetrate crimes at the instant they are witnessing the most dreadful execution of a criminal for a similar offence. The punishment of death precludes the possibility of amendment by any human means. Every hope of reformation is at once cut off, without a single effort to accomplish so just and benevolent a purpose. Society and the injured party may indeed be said to be avenged on the head of the guilty offender.

But justice, not revenge, is the true foundation of the right of punishment.

If society is effectually secured against future mischief by the imprisonment of the offender, it is that mode of punishment also which affords the only chance of reclaiming him from evil. It is by confinement to hard labour in a penitentiary that the primary and legitimate purpose of human punishment is to be effected. The characters of men are endlessly diversified, and their motives and actions assume a thousand different hues. Convicts may, in general, be distinguished into three classes: men grown old in habits of profligacy and violence, unfeeling and desperate offenders, who discover no signs of contrition, and yield little hope of amendment:—those who, in early life, have perhaps received a moral and religious education, and, though afterwards led by passion and evil example into the commission of crimes, still retain some sense of virtue: and those who, having sustained a fair reputation, are arrested for the first public offence, before they have become familiar with vice; who wish, perhaps, to return to the paths of virtue, but have not energy enough to retrace their steps.

In forming an opinion of the depravity of convicts, nothing can be more unjust than to confound these different classes in the same judgment. All were once innocent; but, blinded by passion, allured by present temptation, they have mistaken their true interest, and been gradually led into the depths of vice and criminality. In designating punishments for various offences, the legislator can regard only the tendency of actions to injure society, and distribute those punishments according to the comparative degree of harm such actions may produce. He cannot foresee those circumstances in the moral condition of the agent which may justly lessen or aggravate his guilt; and, by the wise constitution and jealous policy of our laws, judges are not vested with any discretionary power to apportion the punishment according to a greater or less criminality of intention in the offender. It is in a penitentiary that an opportunity is afforded of distinguishing the shades of guilt in different offenders, and of correcting that error and injustice, in some

degree inseparable from the best system of laws, by which persons, whose guilt admits of different degrees, are subjected to the same punishment. It is for those to whom the superintendence of such an institution is intrusted, to effect, as far as possible, the amendment of the delinquent, and thus to fulfil the highest duty of humanity. And, it is with no small degree of pleasure that the inspectors have observed, that some of those who have been discharged, have continued in habits of industry and sobriety, and bid fair to become good members of society. It would, no doubt, be interesting to the philanthropist to be informed of the particular incidents in the lives of such men, and the circumstances which have furnished ground to predict the rectitude of their future conduct. But this would lead to a discussion beyond the immediate object; and motives of prudence and charity ought, perhaps, to induce a forbearance from such a recital.

The most efficacious means of reformation are to be found in that system of regular labour and exact temperance, by which habits of industry and sobriety are formed. The inspectors have not been unmindful of other means of amendment, less immediately connected with the nature of the punishment to which the convicts are sentenced. By the great attention paid to cleanliness in every part of the prison, they have shown their opinion of its importance in aiding reformation. Its benign influence on the physical character, though well understood by many, is not duly estimated by the bulk of mankind. Though its effect on bodily health be more obvious, its less striking but equally certain effect on the mind has been no where more fully experienced than in this prison. It is found to soften the temper, meliorate the disposition, and to produce a regard to temperance, order, and industry; and, by exciting more agreeable and tranquil sensations, to render men susceptible of good impressions, and thereby conduce to their future amendment.

The school instituted in the prison, the regular performance of divine worship in the chapel, and the occasional visits of the chaplain to the convicts, are auxiliaries in the work of reformation not without ample and salutary effects.

Connected with this scheme of punishment and reformation, is another object, which, though of inferior importance in a moral view, is yet deserving of attention. This is indemnity to the community for the expense of the conviction and maintenance of the offender.

In the early establishment of the prison, the inspectors had to encounter all the difficulties of a new experiment, with the disadvantage of imperfect knowledge in many branches of manufacture. A system was to be formed, by which several hundred convicts, many of them hardened, desperate, and refractory, and many ignorant, or incapacitated through infirmity or disease, might be brought into a regular course of productive labour. To find suitable employment for so many persons, was a matter of considerable difficulty : and, in the choice of occupations, regard was to be had to those which required the least capital, were most productive of profit, and most consistent with the health of the convicts, and the general security of the prison. These difficulties are disappearing, and already the labour of the convicts yields more than what is necessary for their immediate support. The institution, however, must of necessity remain burthensome to the state ; for though the arrangements be ever so perfect, and the manufactures ever so productive, it cannot be expected that the profits will ever amount to a sum adequate, over and above the maintenance of the prisoners, to the payment of the salaries of the several officers, the pay and support of the guard, and the vast expense attendant on the conveyance of convicts from every county of the state.

It cannot be denied that the number of convicts has greatly increased since the erection of the State Prison. But we are not to infer from this fact, that the new and milder scheme of punishment has been less efficacious in preventing crimes than the old and sanguinary system. The *true causes* of this increase of crimes are the rapid growth of our population and wealth, and the consequent luxury and corruption of manners.

If the present mild course of punishment presents less terror to culprits than the old code, it must be confessed that it is calculated also to produce more numerous instances of

reformation and amendment, particularly in those who have just been initiated into the trade of vice; and the reclaiming and restoring to the paths of virtue one person of this description, is certainly more beneficial to society, and more in unison with the dictates of humanity, than the sanguinary punishment of many bold and hardened offenders.

PARDONS.

It has been observed by Beccaria, whose opinions have the force of axioms in the science of penal law, that "as punishments become more mild, clemency and *pardon* become less necessary;"—that "clemency belongs to the legislator, and not to the executor of the laws; a virtue which ought to shine in the code, not in private judgments. To show mankind that crimes may be pardoned, or that punishment is not the necessary consequence, is to nourish the flattering hope of impunity."—"Let then the executor of the law be inexorable, but let the legislator be tender, indulgent, and humane."*

These principles, though just in theory, necessarily presuppose a perfect system of penal law, by which punishment is with such exact justice apportioned to crime, that no difference of circumstances can arise in any case, which ought to vary the punishment prescribed for the particular offence. No code so perfect has yet been framed, and until such an one is promulgated, it is necessary that the power of pardoning should reside somewhere, to prevent that injustice in particular cases which the legislator did not foresee, or could not avoid. By our constitution, this power is confided to the governor, the chief executive magistrate.†

And under the present penal laws, except in those cases where the punishment of death still remains, the power of pardoning may be exercised without violating the principle advanced by the philosopher of Milan. It may be asserted

* Dei Delitti e delle Pene, § 20. A misura che le pene divengono più dolci, la clemenza ed il perdono diventano meno necessari, &c.

† In cases of treason and murder in New-York, the Governor cannot pardon, but may reprieve the convict until the next meeting of the Legislature, who may pardon if they think fit.

that, in the deliberate and impartial manner in which justice is administered in our courts, it is scarcely possible that any man can be *presented* by a grand jury, tried and convicted by a petit jury of twelve men, in the presence of the court and the world, without a degree of guilt deserving of some punishment. Imprisonment for a short period, under the mild and humane regulations of the State Prison, cannot, in cases the most favourable to the prisoner, be deemed unjust. It may be laid down, then, as a general principle, that no person, convicted of a crime, and sentenced to imprisonment, ought to be pardoned, until he has suffered a punishment proportioned to the degree of his guilt, or at least so much as may satisfy the community he has injured. Under the guidance of this principle, it is believed that the power of pardoning may be made conducive to a more perfect dispensation of justice, and subservient to the plan of reformation intended by a penitentiary prison. It will not be thought useless to endeavour to fix some general rules for the exercise of a power, which, if arbitrary and capricious, may produce consequences neither foreseen nor intended; but if exerted with sound discretion, so far from weakening the laws, will strengthen their operation.

1. Where the punishment is fixed by law to a crime of a general legal description, comprehending a great variety of different acts, which must, from the course of human conduct, be accompanied with evidence of greater or less depravity; there this attribute of the chief executive magistrate seems necessary, to remedy the imperfection of the general law, and to render the punishment more equitably proportioned to the guilt of the offender; since, from the inevitable want of foresight in the legislature, of the circumstances of each case, it could not be so predetermined by them. Thus *forgery* and counterfeiting, as well as passing money, knowing the same to be forged or counterfeit, punished by imprisonment for life, is a crime, the objects of which are endlessly diversified, comprehending acts of different degrees of turpitude.*

* It may be fairly questioned, whether this and some other crimes

2. Where the law has only defined a limit in the time of imprisonment, leaving it to the discretion of the judge to fix the duration of punishment within that limit, according to the circumstances of each case; there it may be generally said that the executive ought not to interpose; unless when the discretion of the court has been manifestly exercised under some misapprehension, or where circumstances, favourable to the convict, come to light after trial, of which he could not avail himself at the time, but had they been known, ought to have prevented or lessened his punishment.

3. Unequivocal evidence of reformation in a convict, after his imprisonment; to ascertain which, as well as the propriety and safety of discharging a convict before the expiration of his term of punishment, the judgment of the inspectors of the prison, from their situation, may be of essential importance. Indeed, this precaution has been taken, the governor usually applying for the requisite information to the inspectors, a majority of whom join in a recommendation for pardon, where they think it clearly merited by the convict. Previous to such recommendation, however, the inspectors should make it their duty to inquire,—whether the prisoner was convicted by clear and undoubted testimony; which may be ascertained by the report of the judge before whom he was tried;—whether the circumstances attending the commission of the crime denote a greater or less degree of depravity;—whether the prisoner has already suffered a punishment sufficient to satisfy society, and to afford a reasonable ground to believe that his release will not diminish the dread of future punishment in him, or inspire the hope of impunity in others;—whether, while in prison,

are not improperly punished by imprisonment for life. If the sentence did not exceed a certain number of years, it would be in the power of the court to apply the punishment in a manner more justly proportioned to the offence: there would then be rarely, if ever, any occasion for the executive to remit the sentence. Most of the governments of Europe have, in circumstances of society and manners far less favourable than those of this country, gone further in the melioration of their penal laws; and the punishment of death is gradually disappearing from their codes.

he has conducted himself with uniform decency, industry, and sobriety, and has never attempted to violate any of its regulations ;—and, lastly, whether from what is known of his temper, character, and deportment, it is probable, that if restored to society, he will become a peaceable, honest, and industrious citizen. These inquiries ought to be satisfactorily answered in favour of the convict, before he is recommended for pardon ; for it is not a common or ordinary course of good conduct and industry, but a pre-eminent and unexceptionable behaviour, that should entitle a prisoner to this grace. A convict radically and incurably depraved, in hope of gaining favour, may, for a season, so far disguise his genuine character, as to deceive his keepers and inspectors. Sufficient time should be allowed to discover his real disposition, which, on some occasion, at an unguarded moment will show itself. In short, pardon ought never to be granted from the momentary impulse of compassion, the indulgence of which may be gratifying to the individual, but, as regulated by no fixed principle, must be injurious to the public ; nor ought it to be granted merely at the instance of friends or relations, or from considerations of family, but from the clear and unbiassed dictates of justice and humanity, and in such a manner that the community may be satisfied that the influence of the law is not impaired, nor its severity relaxed, without sufficient reason.

No man who enters the prison with vicious habits can be reasonably expected to be divested of them in a short period ; and it must greatly injure the penitentiary system to pardon any prisoner before the expiration of his sentence, unless in extraordinary cases, which may possibly, but very rarely, happen. When sentenced to imprisonment for life, no person ought to be released until after several years confinement. If, under the circumstances which have been mentioned, and on principles here stated, pardons are sometimes granted, instead of counteracting the force of the law, they may be made to harmonize with and support the general scheme of punishments so wisely adopted. Its success must, in a great measure, depend on the wisdom of the regulations devised for the internal management of the

prison, and on the prudence, disinterested attention, and perseverance of those to whom that management is intrusted.

To exhibit a simple and faithful account of those regulations, and to furnish such useful hints as the writer, from his own experience, and the suggestions of others, could impart, is the purpose of the preceding pages. He is sensible that the plan of interior regulation is far from being perfect ; but every year will add to its improvement. For, besides relieving the counties from the great burden of keeping convicts, and diminishing the chances of escape, by bringing large numbers together, under a more vigilant inspection, the establishment of a *State Prison* presents the best opportunity, by the magnitude and liberality of its plan, for the formation of a well-digested scheme of internal management and economy, and the full execution of the only just and beneficent system yet devised for the punishment and correction of criminals.

Since this institution has been in operation, similar prisons have been established in Massachusetts, Vermont, Connecticut, New-Jersey, Maryland, Virginia, &c. and it is hoped that the New-York State Prison will, from its present improved and improving state, furnish a model for others in the distant parts of this extensive country. Whatever may be the future condition of mankind, this institution will reflect lasting honour on the state ; become a durable monument of the wisdom, justice, and humanity of its legislators ; and be remembered when the magnificent structures of folly and pride, with their founders, are alike exterminated and forgotten.

AN ABSTRACT

From the Weekly Reports of the Agent to the Board of Inspectors, exhibiting the Annual Amount of the Articles manufactured at each Factory, during the Years 1809, 1810, 1811, 1812, 1813, and 1814.

| | 1809. | 1810. | 1811. | 1812. | 1813. | 1814. |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| Weaving Factory | 6462 32 | 7090 35 | 9767 33 | 13750 38 | 18113 57 | 17606 91 |
| Brush Factory | 1987 10 | 1474 52 | 29342 60 | 17559 88 | 16344 7 | 23855 56 |
| Shoe Factory | 5127 72 | 10426 31 | 10520 40 | 5857 77 | 6896 6 | 6386 5 |
| Turning Factory | 2860 34 | 5637 75 | 5363 49 | 6789 | 7307 67 | 10001 43 |
| Nail Factory | 4969 97 | 8840 49 | 1247 92 | | | |
| Blacksmiths | 1329 68 | 1916 09 | 1440 90 | 2654 15 | 2521 95 | 2579 59 |
| Carpenters | 849 36 | 919 56 | 877 73 | 2206 74 | 1852 86 | 2159 1 |
| Coopers | 195 60 | 1899 74 | 2088 12 | 2385 89 | 2761 68 | 2754 55 |
| Oakum Points, &c. | 1657 10 | 2427 55 | 3742 22 | 3347 53 | 3830 59 | 3275 56 |
| Tailors | 203 69 | 455 35 | 423 29 | 490 24 | 397 18 | 436 86 |
| Painters | 79 75 | 434 52 | 515 92 | 446 50 | 1072 52 | 1660 12 |
| Jewellers and Whitesmiths | 123 65 | 623 49 | 438 31 | 802 13 | 451 67 | 291 34 |
| Bellows Makers | 116 17 | 225 63 | 56 72 | 42 77 | 205 9 | |
| Leather Dressers | | 460 67 | 23 73 | | 168 48 | |
| Trunk Makers | | | 279 39 | 473 99 | 1117 31 | 850 76 |
| Whip Factory | | | | 705 64 | 4931 88 | 3348 96 |
| Machine Makers | | | | 260 | 4396 30 | 3940 60 |
| Carding and Spinning Factory | | | | | 983 25 | 425 75 |
| Women's Work | | 257 81 | 450 79 | 731 52 | 1197 50 | 1340 41 |
| Prison use | | 3467 43 | 6384 91 | 6217 4 | 9295 56 | 8281 21 |
| Stocking Factory | | | | | | 946 16 |
| Cabinet ditto | | | | | | 521 2 |
| Dollars | 25,966 95 | 59,836 49 | 72,893 77 | 66,753 17 | 83,844 39 | 90,661 95 |

A TABLE,

*Showing the Amount of Articles wove in the State Prison during
the Year 1814.*

| | | |
|-----------------|----------------|-----------------------------|
| January . . . | Cloth, &c. . . | 4,600 $\frac{1}{4}$ yards. |
| February . . . | do. . . | 4,121 do. |
| March . . . | do. . . | 5,323 $\frac{1}{4}$ do. |
| April . . . | do. . . | 6,374 $\frac{1}{4}$ do. |
| May . . . | do. . . | 5,627 do. |
| June . . . | do. . . | 4,457 $\frac{3}{4}$ do. |
| July . . . | do. . . | 5,388 $\frac{1}{4}$ do. |
| August . . . | do. . . | 4,929 $\frac{1}{2}$ do. |
| September . . . | do. . . | 4,400 do. |
| October . . . | do. . . | 5,769 do. |
| November . . . | do. . . | 3,983 $\frac{1}{2}$ do. |
| December . . . | do. . . | 4,140 $\frac{1}{2}$ do. |
| | | <hr/> |
| | | 69,114 $\frac{1}{2}$ yards. |

| | |
|------------------------------|--------------|
| Socks . . . | 1,418 pair. |
| Shawls and Handkerchiefs . . | 541 |
| Coverlids . . . | 19 |
| Boot-webbing . . . | 6,500 yards. |

The total Amount of Persons admitted into the State Prison since its first Establishment, in 1797, to the 31st day of December, 1814, is 3,062: of which number there have been pardoned 1199, and died 378. There have returned for the second time, 218; for the third, 33; for the fourth, 3; and for the fifth time, 1.

The Crimes for which they were convicted were,

| | |
|----------------------------------|------|
| For Murder | 3 |
| Accessary to Murder | 1 |
| Manslaughter | 26 |
| Buggery | 4 |
| Arson | 26 |
| Rape | 14 |
| Sodomy | 2 |
| Sacrilege | 5 |
| Poisoning | 2 |
| Highway Robbery | 8 |
| Robbery | 6 |
| Burglary | 116 |
| Forgery | 356 |
| Perjury | 33 |
| Horse stealing | 50 |
| Felony | 9 |
| Fraud | 4 |
| Swindling | 4 |
| Grand Larceny | 1601 |
| Petit Larceny | 665 |
| Assault and Battery | 74 |
| Breaking Prison | 17 |
| Misdemeanor | 15 |
| Receiving Stolen Goods | 5 |
| Attempting to bribe | 1 |
| Bigamy | 13 |
| Deserting the Guard | 2 |
| Total | 3062 |

COPY OF THE KEEPER'S REPORT.

December 29th, 1814.

There are now in the Prison four hundred and ninety-four
Prisoners.

| | |
|-----------------|-------|
| Men | 419 |
| Women | 75 |
| | <hr/> |
| | 494 |

In the Hospital 65

The Prisoners are employed as follows, viz.

MEN.

| | |
|-----------------------------------|-------|
| Weavers | 72 |
| Quillers, Spoolers, &c. | 48 |
| Carders, Spinners, &c. | 13 |
| Machine Carders, &c. | 7 |
| Geer Makers | 4 |
| Dyers | 4 |
| Hatchellers | 1 |
| Reelers and Winders | 2 |
| Stocking Weavers | 3 |
| Sewers | 1 |
| | <hr/> |
| | 155 |
| Shoe Makers | 50 |
| Binders | 5 |
| Closers | 5 |
| Cutting out | 1 |
| | <hr/> |
| | 61 |
| Turners | 12 |
| Repairing cutting-stuff | 11 |
| | <hr/> |
| | 23 |
| Brush Makers | 26 |
| Blacksmiths | 6 |
| Coopers | 3 |
| | <hr/> |
| | 35 |
| | <hr/> |
| | 274 |

| | | |
|------------------------------------|-----------------|-----|
| | Brought forward | 274 |
| Carpenters | | 8 |
| Machine Makers | | 9 |
| Whip Makers | | 2 |
| Tailors | | 4 |
| Trunk Makers | | 1 |
| Painters | | 2 |
| Whitesmiths | | 1 |
| Pill-box Makers | | 1 |
| Sawyers | | 4 |
| Labourers | | 4 |
| Oakum Pickers | | 20 |
| Cooks and Bakers | | 6 |
| Barbers, Gate Keepers, &c. | | 3 |
| Gardeners and Ostlers | | 2 |
| Waiters in Halls | | 9 |
| Waiters in Front | | 4 |
| | — | 24 |
| Invalids | | 3 |
| Clerks | | 4 |
| Assistant Physician | | 1 |
| Superintendants | | 6 |
| Sick | | 49 |
| In the Cells | | 1 |
| Confined in Hall 5 | | 1 |
| | — | 62 |
| | | 419 |

WOMEN.

| | |
|----------------------------|-----|
| Washers | 15 |
| Spinners | 25 |
| Sewers | 3 |
| Waiters | 2 |
| Waiters in Front | 2 |
| Sick | 16 |
| Invalids | 12 |
| | —75 |
| Total | 494 |

CRIMES.

5 Arson
14 Assault and Batte
1 Bigamy
4 Breaking Prison
2 Buggery
6 Felony
73 Forgery
348 Grand Larceny
2 Highway Robber
1 Horse Stealing
4 Manslaughter
1 Misdemeanor
1 Murder
3 Perjury
1 Poisoning
3 Rape
3 Robbery
1 Sodomy
21 Burglary

494 Total.

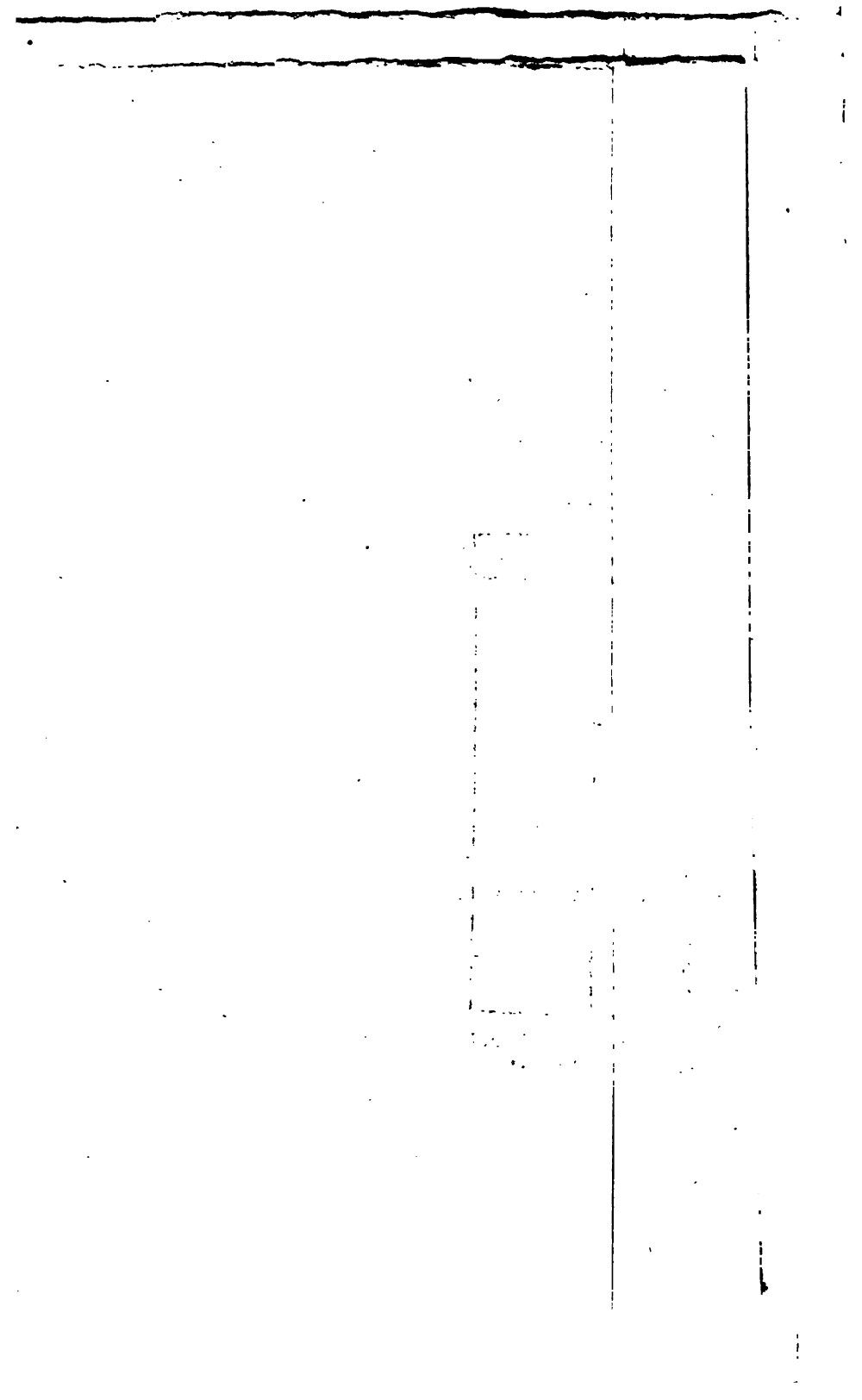
For Life

21 years
20 do.
17 years and 1
15 years and 1 c

NUMBER OF PRISONERS 1

| NAMES. | Americans. | Foreigners. | First Off |
|------------------------------|----------------|--------------|-------------|
| Thomas Guest, | New-Jersey. | | Burglar |
| James Van Blaricum, | do. | | Arso. |
| Amos Leforge, | New-York. | | G. Larc. |
| Charles Quick, | do. | | do |
| Parker, (black) | Pennsylvania. | | do. |
| Joseph Jackson, alias Joe, | | | |
| (black) | New-York. | | do |
| Maria Tillman, alias Anna | | | |
| Maria Johnson, | | Nova-Scotia. | do |
| Eliza Duncan, alias Eliza | | | |
| Dobbins, (black) | New-York. | | Petit-Larc. |
| David Whitman | do. | | G. Larc |
| George Riley, alias William | do. or | | |
| Bradshaw, | Massachusetts. | | do |
| Elisha Green, | New-York. | | Break. I |
| Abraham Eddy, | do. | | G. Larc |
| James Clary, alias James | | | |
| Duggan, | | Ireland. | do |
| James Lee, | Massachusetts. | | do |
| James Cunningham, alias | | | |
| Charles Mathews, | | Scotland. | do |
| Amanda Whelps, alias Eliza | | | |
| Tillman, | | Nova-Scotia. | do |
| Leonard Barnes, | Massachusetts. | | do |
| James Thomas, (black) | | West-Indies. | do |
| John Wiley, | New-York. | | Horse St |
| Josephus Jackson, alias Jo- | | | |
| seph Rabbeson, | | Holland. | Petit La |
| Jonathan Sweet, alias Joshua | | | |
| Davis, | New-York. | | G. Larc |

N. B. Charlotte Thomas, alias Margaret Devire, from June 13, 1803, for petit larceny, sentence three years; a



*An Account of the Diseases which occurred at the State Prison
in the Year 1814, extracted from the Hospital Register.*

| DISEASES. | Number admitted. | Number cured. | Relieved. | Incurable. | Died. |
|------------------------------|---------------------|------------------|-----------|------------|-------|
| Abscess | 5 | 3 | 2 | | |
| Amenorrhœa | 2 | 2 | | | |
| Angina Pectoris | 2 | 1 | | | 1 |
| Ascites | 7 | 3 | 2 | | 2 |
| Atrophia Debilitas | 1 | | | | 1 |
| Asthma | 12 | 3 | 6 | 3 | |
| Bilious Febris | 1 | 1 | | | |
| Catarrhus | 141 | 126 | 14 | | 1 |
| Cephalalgia | 10 | 5 | 5 | | |
| Cholera Morbus | 2 | 2 | | | |
| Chlorosis | 1 | | | | 1 |
| Colica | 2 | 2 | | | |
| Chron. Hepatitis | 1 | | | | 1 |
| Contusio | 4 | 4 | | | |
| Cynanche | 7 | 4 | 2 | | 1 |
| Debilitas | 25 | 18 | 5 | | 2 |
| Diarrhœa | 49 | 31 | 18 | | |
| Dislocatio | 2 | 1 | 1 | | |
| Dysenteria | 9 | 6 | 3 | | |
| Dyspepsia | 10 | 8 | 2 | | |
| Dysuria | 4 | 4 | | | |
| Ectropium | 1 | | 1 | | |
| Enteritis | 4 | 4 | | | |
| Epilepsia | 14 | | 10 | 3 | 1 |
| Febris | 3 | 2 | 1 | | |
| Febris Hectica | 1 | | | | 1 |
| Fistula in Ano | 1 | 1 | | | |
| Gastritis | 1 | 1 | | | |
| Gastrodynia | 1 | 1 | | | |
| Gonorrhœa | 2 | 2 | | | |
| Hæmoptysis | 11 | 7 | 3 | | 1 |
| Hæmorrhoides | 4 | 4 | | | |
| Hæmorrhagia | 1 | 1 | | | |
| Hernia | 1 | 1 | | | |
| Hernia Humoralis | 5 | 3 | 2 | | |
| Herpes | 3 | 2 | 1 | | |
| Hydarthrus | 3 | 2 | 1 | | |
| Hydrothorax | 3 | 1 | 2 | | |
| Icterus | 2 | 2 | | | |
| | 358 | 258 | 81 | 6 | 13 |

| DISEASES. | Number admitted. | Number cured. | Relieved. | Incurable. | Died. |
|-------------------------------|---------------------|------------------|-----------|------------|-------|
| Brought forward | 358 | 258 | 81 | 6 | 13 |
| Intermittens Febris | 23 | 13 | 9 | | |
| Isehuria | 2 | 2 | | | |
| Leucorrhœa | 1 | 1 | | | |
| Menorrhagia | 1 | 1 | | | |
| Morbus Nigré | 1 | | 1 | | |
| Obstipatio | 7 | 5 | 2 | | |
| Ophthalmia | 8 | 7 | 1 | | |
| Otitis | 1 | 1 | | | |
| Phthisis Pulmonalis | 13 | 4 | 4 | 3 | 7 |
| Pertussis | 1 | | 1 | | |
| Phlegmon | 4 | 4 | | | |
| Pleuritis | 10 | 10 | | | |
| Pneumonia | 190 | 153 | 34 | 1 | 2 |
| Pneumonia Typhoides | 3 | 1 | | | 2 |
| Pregnant | 2 | | 2 | | |
| Prolapsus Ani | 1 | 1 | | | |
| Prolapsus Uteri | 1 | 1 | | | |
| Psoriasis | 1 | | 1 | | |
| Pyrosis | 1 | | 1 | | |
| Rheumatismus | 41 | 31 | 7 | 2 | 1 |
| Scrophula | 3 | | 2 | | 1 |
| Secund. Syphilis | 1 | | 1 | | |
| Stricture | 4 | 2 | 2 | | |
| Struma | 4 | 4 | | | |
| Syncope | 2 | 2 | | | |
| Synocha | 2 | 2 | | | |
| Synochus | 2 | 2 | | | |
| Syphilis | 13 | 8 | 5 | | |
| Tabes | 2 | 1 | | | 1 |
| Tetanus | 1 | 1 | | | |
| Typhus | 3 | 1 | | | 2 |
| Tumores | 11 | 11 | | | |
| Ulcus | 9 | 5 | 3 | 1 | |
| Variçose Veins | 1 | | 1 | | |
| Vermes | 1 | | 1 | | |
| Vulnus | 8 | 5 | 3 | | |
| Total | 741 | 537 | 162 | 13 | 29 |

RECAPITULATION.

| | |
|--------------------------|-------|
| Total admitted | 741 |
| Cured | 537 |
| Relieved | 162 |
| Incurable | 13 |
| Dead | 29 |
| | <hr/> |
| | 741 |

Of the above cases, thirteen have been pardoned, and two discharged by expiration of sentence.

N. B. Fifty-six of the above cases were in the Hospital at the commencement of the year 1815.

IN ASSEMBLY, MARCH 2, 1814.

To the Honourable the Legislature, the Inspectors of the State Prison respectfully Report,

That during their short experience of the duties and system of this establishment, they have ample reason to be satisfied that every thing in the power of the Agent has been done to improve and render beneficial the manufacturing department, as well as to make the expenditures as little burthensome to the state as possible. The rapid increased price of raw materials, tools, &c. without a corresponding increase in the value of the manufactured article, and the increased prices of the articles necessary for the consumption and support of the house, have had the effect to lessen the profit on the one, while it increased the expenditure of the other. A reference to the report and documents from the Agent, herewith transmitted, will more fully explain this subject.

From a particular attention to the conduct of the prisoners just after the periods of pardoning, and inquiry into the conduct of those pardoned, the inspectors are strongly impressed with a belief, that it would be infinitely more beneficial to the welfare and safety of the prison, and less dangerous to society, if some mode could be adopted preferable to the

present, to wit, of discharging, periodically, forty or fifty prisoners at once. From the number going out together, many of them immediately meet in company, and the best inclined are frequently led astray by the more vicious, and soon return again to these walls, or are depredating upon society in other states: while the house, for some time after the pardons, is in an unsettled state;—many are disappointed, dissatisfied, unwilling to work, almost ready for any desperate enterprise; many changes necessary to be made in the different workshops, from which, probably, the best workmen, as well as best disposed, have been suddenly removed. With a view to improvement in this system, the Inspectors advise a trial of the plan suggested by the agent; or that the pardons, when granted, be at the disposal of the Inspectors for the whole period between the sessions of the Judges, in such way, that they may discharge the prisoners from time to time, as the safety and interest of the house may require; thereby lessen the chance of their associating together; enable the agent to make the proper arrangement for supplying gradually the places in the workshops of those who go out; and ensure the good behaviour of the prisoners, by the state of suspense and continued hope, that each one's turn may be the next.

The inspectors beg leave to call the attention of the legislature to the subject of crimes committed within the walls of the prison—a bill for the prevention or punishment of which, they understand, was submitted by their predecessors.

In the present times of heavily increased prices of almost all articles of food and clothing in this city the inspectors have been feelingly addressed by the assistant keepers of this prison, in behalf of themselves and families, praying an increase of their salaries. Knowing, as we do, the arduous duties they have to perform; the fidelity with which they perform them; and the reasonable nature of their request—the inspectors ask the honourable legislature to grant the required relief, by an increase of pay to each assistant keeper, of sixty-five dollars per annum; making their then amount of annual pay, three hundred and sixty-five dollars.

The inspectors are of opinion, that the institution will be

benefited by granting the agent's application for fifteen thousand dollars ; to which they recommend an addition of seven hundred and sixteen $\frac{1}{100}$ dollars, being a sum appearing to be due Thomas Eddy, during his agency to this institution, as appears by accounts audited by the comptroller for nine hundred and thirty-four $\frac{44}{100}$ dollars, since corrected by a committee of this board ; a statement of which is herewith presented.

The inspectors beg leave to refer the legislature to the agent's report for the several subjects respecting the improvements, &c. in the prison there suggested.

All which is respectfully submitted.

JAMES TYLEE,
LEONARD FISHER,
EDMD. KIRBY,
SAMUEL WHITEMORE,
CHARLES STEWART,
THOMAS C. BUTLER,
THOMAS C. TAYLOR,

Inspectors.

To the Inspectors of the State Prison.

GENTLEMEN,

In obedience to the laws, the annual accounts of the State Prison are adjusted, and the necessary papers for the inspection of the Legislature completed : all of which I take leave to submit to your honourable Board, accompanied with a few remarks, which, to me, appear important ; trusting they will be received with that candor which I have ever experienced. The enhanced price of almost every article purchased both for the support of the prison and for the use of the factories, and also for the clothing of the State Prison Guard, have increased the expense much beyond the amount of any former year, as will appear by the accounts accompanying this report.

The papers for the Legislature are numbered from 1 to 7 ;

and those for the Comptroller are lettered from A. to I. inclusive.

| | |
|--|--------------|
| A. Amount of bills paid, salaries, &c. | D. 78,909 78 |
| B. Exhibits the amount of cash received during the year 1813 | 74,181 52 |
| C. Exhibits the amount of inventories | 89,778 3 |
| D. Shows the amount of sales | 78,802 75 |
| E. Exhibits the amount of purchases for the year 1813 | 85,986 89 |
| Debts due by the Agent for raw materials, &c. | 32,382 35 |
| The debts due the prison amount to | 47,003 79 |
| (This includes every debt found on the books, from the establishment of the institution, more than one-third of which are presumed to be bad). | |
| Total gain of the factories | D. 43,902 61 |
| Balance of support and clothing account | 39,357 69 |
| Balance | 4,554 92 |
| From which deduct for prison repairs | 212 07 |
| Net gain | D. 4,332 85 |

Notwithstanding every effort has been made within the compass of my ability, to render the institution as little burdensome to the state as possible, still circumstances occurred that have disappointed my hopes. The circumstances to which I allude are naturally of two kinds. The first is presumed to be beyond the reach of any remedy, but the Legislature may possibly improve the other. The convicts who are committed for second and third offences are numerous; their broken constitutions make them of little use to the institution. Others there are, whose infirmities render them unfit for any labour. And many, on their first entrance, are immediately admitted into the hospital; thus becoming a double charge. The usual number of patients on the sick

list is from sixty to seventy, as will appear by a reference to the hospital reports. These I deem remediless.

I will now point out what to me appears in some measure to admit of relief. First, the female convicts are yearly increasing. The present number amounts to seventy, and may emphatically be called the very refuse of society: they are ever complaining; very refractory; and, of course, very much under prison punishments; their work never has, and perhaps never will be made productive.

As a large proportion of these women are confined for crimes but a degree above *petit larceny*, I would suggest the propriety of revising the criminal code, in such a manner, as that no female should be sentenced to State Prison confinement, unless for crimes of the first magnitude; such as manslaughter, arson, burglary, &c. &c. Again, the present mode of pardoning tends to embarrass the operations of the prison, not so much by loss of labour, as by the sudden derangement in the manufacturing establishment. Last year about one-fifth part of the whole number of convicts were pardoned. According to the present mode, the honourable the Judges of the Supreme Court assemble twice in the year, to determine on the claim of such prisoners as are selected by the Board of Inspectors to be recommended to Executive mercy. The embarrassment brought on the factories by the discharge of so many at one time must be very apparent. It not only renders the operations irregular, but impedes them for some time after. To remedy this evil, I would propose a more gradual mode of pardoning; and as an incitement to industry, good order, and reformation, would recommend a classification of the prisoners; forming them into three or four classes, selected from among the best behaved prisoners, having reference to their term of sentence; the pardons to be always from the first class, (except in especial instances,) to be filled up, as vacancies may occur, from the other classes.

To put the arrangements in a clearer point of view, we will suppose there are seventy in the first class, whose terms of sentence are from three to five years. These men shall be informed, that on a continuance of their good behaviour, one half of their sentence will be remitted, and they will be

entitled to their pardon accordingly ; assuring them, at the same time, that particularly favourable circumstances may obtain it sooner ; subject, however, for misconduct, to degradation by the Board of Inspectors. By such an arrangement, an inducement would be held out, to rouse their energies ; the pardons would be more gradual ; and, of course, the *factories* less interrupted ; degradation would be a substitute, in many instances, for the present mode of punishment : and the Agent feels confident, that could something like the proposed plan be substituted, the benefits would be apparent, both in the profits of the house and the safe keeping of the convicts. The public are frequently alarmed by the appearance of forty or fifty persons, and these not of the fairest characters, let loose upon society in a single day, under such circumstances as prompt the vicious to acts of desperation : the citizens anticipate the moment with anxiety ; and being viewed with a jealous eye, combinations are formed among those who are disposed to return to habits of vice. As reformation was one of the great objects of the philanthropic founders of the prison, and as the good of the community so imperiously requires it, should not every effort be made for accomplishing so pleasing a work ? Further, to enable those who are pardoned to enter society with better prospects of making good citizens, I would recommend, that the Inspectors grant a certificate to each, certifying that they have been liberated by merit, having during their confinement met the approbation of the Board.

Last year the draft of a bill relative to crimes committed within these walls, was sent to the Legislature, in the hope that it might become a law ; the reasons for which were urged in the last Annual Report. The Agent is of opinion, that measures should be taken to urge its passage this session, as its provisions are of material consequence in several important points of view.

The Agent has much satisfaction in stating, that the expectations which were formed from a project of lighting the prison by *inflammable air*, or *gas*, and which were considerably damped by obstacles well known to the Board, will now be realized ; and he thinks, that in the course of the ensuing

spring, it may be put into full operation, unless it should be further impeded by the difficulty of procuring the necessary *pit coal*. In connexion with this, it is contemplated, by means of a boiler, heated by the same fire, to generate steam, which being conveyed through the building by pipes, will be sufficient to warm every apartment; whereas the present mode requires great expenditure for fire-wood.

The Agent has a further improvement in contemplation, to wit, the erection of a small steam-engine in the yard, for the purpose of turning the carding and spinning machines, &c. now in operation; as also, several heavy lathes, which at present employ a considerable number of men to drive them.

At the decease of a convict, a coroner has always been called to view the dead body, for which he receives a fee of ten dollars. This expense, upon an average, will amount annually to more than three hundred dollars. Might not this charge with great propriety be dispensed with? We have a medical student who resides in the house; three visiting physicians, and a surgeon; one or the other of whom is every day in the hospital. We have a committee also from your Board, who are in the habit of examining at least twice a week. This, in connexion with the Agent and Keepers, appears to render the visit of the coroner useless.

On my taking the agency, among the debts due the prison one appeared to be from Mr. Thomas Eddy, amounting to the sum of fifteen hundred and fifty-one dollars and eighty-three cents. When called upon for payment, he objected, saying there was a balance due him, and has since obtained a certificate from the Comptroller, certifying that there was due him the sum of nine hundred and thirty-four dollars forty-four cents, making a difference against the institution of twenty-four hundred and ninety-one dollars twenty-seven cents. This claim has since been reduced to seven hundred and sixteen dollars and five cents, by your committee. If the Board are satisfied it should be paid, should not an application be made to the Legislature for that express purpose, independent of what is required for the ordinary calls of the institution?

The high price which every article bears, necessary for

the comforts of life, has caused considerable uneasiness of late among those attached to the house, and who depend on a salary for support. I submit to your consideration the propriety of stating these facts to the Legislature, requesting some small addition, when it may be thought advisable. Under existing circumstances, the Agent conceives it absolutely necessary that the Inspectors apply to the Legislature for a grant of fifteen thousand dollars, for the purpose of aiding the manufactories, and to meet the payments that may become due.

Thus, Gentlemen, have I introduced what has appeared to me necessary to be officially communicated. It has emanated from an ardent desire, that the institution may flourish, and that it may become less burdensome to the state.

All which is respectfully submitted.

WILLIAM TORREY.

February 12th, 1814.

No. V.

DESCRIPTION and Historicâl Sketch of the Massachusetts State Prison.—Published by Order of the Board of Directors.

THE Massachusetts State Prison, or Penitentiary, is built of hewn stone, and stands on the westernmost point of the peninsula of Charlestown, called Lynde's Point, a pleasant and healthful situation, commanding an extensive, rich and variegated prospect. It was erected in 1804-5, and consists of a principal building, 66 feet long and 28 wide, containing five stories; and two wings, each 67 feet long by 44 wide; making the whole building 200 feet. The centre, or principal building, is divided into apartments for the accommodation of the officers and overseers. The two wings form the prison, and are four stories high, containing 47 rooms and cells in

each wing. A long entry, 12 feet wide, runs through each story, the whole length of the wing; and the cells or rooms are situated on each side of this entry, and open into it. The rooms of the two upper stories are 17 feet by 11, and are furnished with square windows, with double grates and a glazed sash. The cells of the two lower stories are only 11 feet by 8, and have no windows; receiving air and a small light by means of crevices or openings through the wall, about 2 feet high and 4 inches wide. These cells in the ground story are appropriated for the convicts during their sentence to solitary, and when confined as a punishment for disorderly behaviour. Half of the upper story of the east wing is appropriated for an Hospital, where the sick are comfortably situated, tenderly nursed, and skilfully attended. The other half of this story is the apartments for the females, who are always locked in, and not suffered to go into the work-yard where the male convicts are.

The foundation of the prison is composed of rocks, averaging two tons weight, laid in mortar; on this foundation is laid a tier of hewn stone, nine feet long, and twenty inches thick, forming the first floor. The outside walls are four, and the partition wall two feet thick; all the joints in the wall are cramped with iron. The doors of the cells in the two lower stories are made of wrought iron, each weighing from five to six hundred pounds. The entries have grated windows and sashes at the outer ends of each wing, and at the inner ends grated doors, through which the prisoners come out and descend to the yard. On the centre of the building is a cupola, in which the alarm bell is suspended.

Competent judges pronounce this to be one of the strongest and best built prisons in the world. It has these advantages over many other buildings of this kind, it can be neither set on fire by the prisoners nor be undermined. The stones of which it is built are of coarse hard granite, from six to fourteen feet long.

The work-yard is three hundred and seventy-five feet by two hundred and sixty, encompassed by a stone wall five feet thick at the bottom, three feet at top, and fifteen feet high, on top of which is a plank walk or platform, with rail-

ings, where the centinels, who perform duty by day, are stationed. This wall, on the north side, is washed by the tide waters, from a branch of Charles River, which also flowed up to the wall on the west side, before the wharf was built out. Within the yard there is a brick building, two hundred and twenty-seven feet long by twenty-five wide, having two stories and a basement. The centre presents a pediment, forming a sort of attic story, and the roof is surmounted with an open cupola which serves as a ventilator. This building contains the workshops, the great kitchen, wash-house, eating-hall and chapel. There are also in the yard two large wooden sheds, in which the business of hammering stone is performed. And at the north-west corner there is a convenient bathing place, about thirty feet square and seven feet deep, communicating, by an aqueduct under the wall, with the tide-water, so that every flow of the tide brings in a clean cistern of water for bathing, contributing much to the health and cleanliness of the place.

The front yard, through which is the common entrance into the prison, is formed by a temporary inclosure of pointed palisades twenty feet high. These palisades are interrupted and a part of the enclosure formed by a brick store communicating with the front yard, and with the wharf. The wharf extends from the south round to the west side of the prison, and is from about two hundred to sixty feet deep; at high tide there is sufficient water here for vessels of nine or ten feet draught; wood and stone, and other materials, are landed here, by boats from the Middlesex canal.

The State purchased about five acres of ground, including extensive flats, for the accommodation of this institution. The expense of the prison and outworks amounted to about one hundred and seventy thousand dollars;* and the work was conducted under the direction of his Honor Edward H. Robins, Charles Bullfinch, and Jonathan Hunnewell, Esqrs. who were appointed agents for the purpose, by the General Court.

The Prison was ready to receive convicts in December,

* There has been some additions in buildings since.

| | |
|---|-----|
| 1805, and on the 12th of that month two were committed ; and the next day sixteen, and at the end of the month there were in the Prison | 34 |
| During the year 1806, there were received | 42 |
| In 1807 | 55 |
| 1808 | 89 |
| 1809 | 95 |
| 1810 | 86 |
| 1811 | 74 |
| 1812 | 75 |
| 1813 | 109 |
| 1814 | 100 |
| 1815 | 111 |
| 1816 | 137 |

Whole number committed to December 1, 1816 . . 1007

Of which have been discharged, on expiration

| | |
|-----------------------------|----------|
| of their sentence | 512 |
| By Pardon | 145 |
| Died | 36 |
| Escaped | 10 — 703 |

And there is now in the Prison 304

| | |
|--|-----------|
| Males | 290 |
| Females | 14 — 304 |
| Of which are Foreigners | 57 |
| Blacks or coloured | 41 |
| White Americans | 206 — 304 |
| Of the whole number, there are for life twenty males and two females. | |

The first act passed by the legislature, regulating and organizing the state prison, and appointing the officers for the government of it, was in June, 1805. By this act it was provided that criminals convict should be confined in the state prison. The governor, with advice of council, was authorized to appoint a chaplain, physician, and superintendant, and such other officers and servants as should be thought necessary and proper, and to establish all rules, regulations, and orders for the government of said prison ; and also em-

powering the governor to draw his warrants on the treasurer of the C. W. in favour of the superintendant, for money for support of the institution. In conformity to this act, a committee of the executive council reported certain rules and orders, for the immediate government of the prison, which were adopted. By these regulations, it was proposed that five discreet persons should be appointed as a board of visitors, and the chaplain and physician were *ex officio*, to be members of this board. A keeper also was to be appointed, to reside and have subsistence at the prison.

In October following, a board of visitors was appointed, consisting of the Honorable Christopher Gore, Honorable Artemas Ward, and Honorable Benjamin Pickman, together with Honorable Josiah Bartlett, physician, and Jedidiah Morse, D. D. chaplain. Daniel Jackson, Esq. was also appointed superintendant.

The first meeting of this board was Nov. 7, 1805, at the Charlestown Hotel, when after other business, it was voted that the next meeting should be held at the prison, and the superintendant was requested to provide accommodation for that purpose.

This board of visitors drew up rules and orders, for the government of the prison, and all persons thereto belonging, which were established in April, 1806; and the spirit and principal effect of which have, with various additions and alterations, continued to the present time, and exist in the rules and orders now in force. The Hon. Mr. Gore and Mr. Pickman resigned their seat at the board, the one in June and the other in August, and the vacancies were filled by Andrew Craige and Joseph Hurd, Esquires.

In June, 1807, the board of visitors having been reduced to three members, by the resignation of the Hon. Artemas Ward and Rev. Dr. Morse; the executive council passed an order that in future the board should consist of three only, and that two should form a quorum. In May, 1810, another order of council provided, that there should be nine members in the board of visitors; and in addition to the three then composing the board, viz. Hon. Josiah Bartlett, Mr. Hurd, and Mr. Craige; John Lowell, Isaac P. Davis, George G. Lee,

Samuel P. Gardner, William Pickman, and John Welles, Esquires, were appointed. Mr. Welles declined serving. G. G. Lee, Esq. was appointed agent by this board, and officiated several months. These gentlemen, except Mr. Craige, resigned in October, and a new board was formed of the following gentlemen: Hon. William Gray, Andrew Craige, Tristram Barnard, Joseph Russell, Esquires; Hon. Matthew Bridge, Hon. Jonathan L. Austin, and Thomas Melvill, Esq.

In June, 1811, the legislature passed a new act for the government of the State Prison, and repealing all former acts relating thereto. This act now remains in force, and conformably to it, the prison has been governed.

The first warden appointed by virtue of this statute, was Colonel Robert Gardner, who resigned August 27, 1813, and the present warden was appointed to succeed him. The first board of directors were James Prince, Jesse Putnam, and James T. Austin, Esquires; but Caleb Bingham, Esq. was soon after appointed, on the resignation of Mr. Putnam. And these three gentlemen continued until January, 1816, when they resigned, and a new board was formed, consisting of three of the former visitors, viz. Hon. Josiah Bartlett, Joseph Hurd, and George G. Lee, Esqrs. The sudden and lamented death of Colonel Lee created a vacancy, which has been filled by the appointment of Benjamin Weld, Esq. who, together with the two before-mentioned gentlemen, constitute the present board of directors.

Until 1816, the only guard, for the security of the prison, were the watchmen, overseers, and turnkeys. These had been gradually increased from eleven to fifteen. In August of this year, the convicts, whose numbers consisted of about 280, presuming upon the weakness and insufficiency of this guard, made insurrection in the yard, and attempted to escape by scaling the walls; sixteen of them succeeded in getting over amidst the fire of the watchmen, and fled in various directions; but being closely pursued by the officers of the prison, assisted by a great number of the citizens of Charlestown, they were all soon re-taken and brought back, except two, one of which finally escaped; the other has been re-taken, and since brought back to the prison. In this

affray several convicts were wounded, one of which died of his wounds.

In consequence of this insurrection, it was thought necessary to increase the force at the prison; and the board of directors having recommended that a military guard should be employed for this purpose; the governor and council approved the measure, and by an order in council of 29th August, 1816, authorized such a guard to be established, consisting of one serjeant, two corporals, and twelve privates. This guard was accordingly raised, and commenced their duty at the prison, first of October. The effective force for the security of the prison at present, consists of the keeper, two turnkeys, six overseers, and the military guard of fifteen, total twenty-four.

The convicts sent to the State Prison are sentenced to *hard labour*; and it was a fond, though false expectation, of some of the advocates for such an institution, that the proceeds of this labour would pay all the expense of the establishment. Various causes combine to make it impossible that such expectations should be realized. Were the expenses of subsistence and clothing for the convicts, only brought into the account, the proceeds of their labour might, perhaps, nearly balance it. But the other charges for the support of the institution, and incident to it, more than double these items; such as pay and support of the officers, guards, and overseers; wood, oil, bedding, &c.; care, attendance, and medicine, for the sick; transportation of convicts from various and distant counties in the state; additions to, and alterations and repair of the buildings; loss and damage of stock and materials, tools or manufactures, by malicious and revengeful convicts, &c.

Many of the convicts also are unfit for labour of any kind, when they come into prison. Enervated by intemperance, and with constitutions worn out by debauchery, their sickly frames are a long time an expense to the institution, before they gain strength to add any thing by way of labour, to its income. And often the term of their sentence is only sufficient, with the expense of hospital attendance, to restore them to liberty and society, in better health than they were

committed to prison. Some are useless for want of natural talent; they have no faculty, they have been brought up idle, and it would be too expensive to teach them a trade even if they were capable of learning one. Of the many who are sentenced for short periods, a few only who have been bred to such trades as are carried on within the prison, can be very useful; for those who are not mechanics, before they can acquire such a facility at any new labour as to be profitable, their time expires, and they are discharged. There are many also, whose knowledge in business might be valuable elsewhere, and yet useless in this place. A good farmer, a good sailor, tanner, rigger, miller, or the like, would be good for nothing here.

From this view of the subject, therefore, it will be seen, that but a small portion of the numbers confined in this prison, can immediately be profitable labourers; and it cannot reasonably be expected, that these few should not only support themselves, but their idle and useless companions, and also produce a revenue equal to the other great charges of the institution.

One great difficulty in making the labour of the convicts productive, is the want of suitable labour to employ them upon. Various plans have been adopted since the establishment of this prison, and various modes of employment have been tried, to increase the profit of their labour; different trades have been carried on at different times, and the experience of past success, or damage, would seem to point out the most advantageous employment in future. But this experience, although an useful, is not a perfect or infallible guide; for some branches of manufactures, which the circumstances of the times rendered profitable, have fallen into decay, as times change, and these circumstances have altered. During the late war, the making of the common wood screws employed from forty to fifty convicts, to good profit. This business is now wholly given up, in consequence of the overabundant importations. Weaving, from the same cause, has also declined. As these, and such other sources of labour fail, the institution is obliged to resort to new trades, and search for new employment. The great loss and inconveni-

ence attending such changes, may be easily conceived, but not easily avoided. For suppose a manufacturer of woollen cloth, who employed one hundred men in this trade, was obliged to suspend this business, and employ these hundred men at smithery; can it be supposed that he could make them earn their living at this new employment? Could they earn any thing, without a great loss of time in learning? Such is the loss the Commonwealth has to sustain, by frequent changing of labour in this institution; as also the loss of old tools, and the expense of new ones.

Shoe-making is the most permanent trade that has been carried on within the Prison. This being an extensive occupation, in all communities, more men come into the Prison of this than of any other trade. The objects of their labour are also always in demand. By letting these men out to contractors at forty or fifty cents per day, they have usually produced a good revenue; but a raw hand can earn nothing at this business.

The policy of later years has been to let or farm out the convicts, of any trade or profession, to Contractors, whenever it can be done at forty cents per day, and for any employment which such contractors may choose to set them about; and this method has been found invariably to be of more advantage to the State, than to purchase stock, and sell the proceeds of their labour. A single exception may perhaps be made lately, in the business of hammering stone. This is an experiment that has been in operation about a year and a half, (it was heretofore under a contract, the State receiving a portion of the sales) and at present bids fair to be of profitable issue. The rough stones, a beautiful species of granite, are broken from their native beds near the banks of the Merrimac, floated down the Middlesex Canal, and landed with great facility on the Prison wharf, and are hammered and prepared in the finest manner, by the convicts, for building. This business was commenced six years ago, under a contract with Messrs. Bemis and Stearns for five years; by this contract, the State was to receive three-eighths of the proceeds of sales, as a consideration for the labour of the convicts, in hammering them. At the expi-

ration of this contract, it was not thought advisable to renew it; but to purchase the rough stone, and prepare it for sale, for the sole benefit of the State. The business is now extending, and as is observed above, bids fair to be profitable. Two large orders have lately been received for these stones, from Savannah, in Georgia; one for building a church, and the other for the basement of a bank; both orders amounting to fifteen thousand feet or upwards; above four thousand feet of which have already been delivered.

The trades now in operation at the Prison, are,

| | |
|--|----|
| 1st. Shoemaking, employing | 30 |
| Let out to Messrs. Wise and Snaith, of Boston; and eight ordinary ones making and mending for the Prison | 8 |
| 2d. Weaving, employed by Mr. Bemis of Watertown, by the day, at forty cents | 17 |
| By the yard, for sundry persons, and for shirting, &c. for prisoners' use | 14 |
| 3d. Brushmaking, employed by Mr. Curtis at 40 cents. | 12 |
| 4th. Coopers, let to Mr. Adams | 6 |
| 5th. Cabinet-makers, let to Mr. Lane | 3 |
| 6th. Spike and nail-makers; filers and smiths. Stock generally purchased and manufactured, sold for the benefit of the State | 26 |
| 7th. Stone hammering, as before noted | 81 |
| 8th. Tailoring, for use of convicts, with occasional custom of the officers | 17 |
| 9th. Carpenters, about the various repairs and work for the Prison | 4 |
| 10th. Tin-plate workers, employed by Mr. Bradlee by the day | 6 |
| 11th. Filers and white-smiths jobbing | 4 |

The remainder are cooks, washers, waiters, sick, invalids, barbers; lumpers, employed about the wharf; fifteen females, employed at spinning and knitting. Oakum picking, the last poor resort when there is nothing else to do, employs a number of old, feeble, indolent, and unfacultied, who can be useful no where, and who will always be a burden to whatever society they may be cast upon.

For a more particular and exact statement of the number of the convicts, and a more minute account of their labour, see Table 2.

Such is the brief history of the foundation, management, increase, and present state of the Massachusetts State Prison; and the question will be asked, has it answered the purpose for which it was intended? or have any of the great objects contemplated by its benevolent, political, or economical projectors, already been, or are they likely ever, to be attained? This is a speculative inquiry, and as men reason variously, it will be answered negatively, or in the affirmative, as various sentiments and opinions predominate. The writer of these remarks has ever considered it a benevolent institution, and he is unwilling to believe that as such, it does not still justify and deserve support. It has undoubtedly, as regards expense, disappointed the hopes of those who calculated a saving to the Commonwealth, by this new mode of punishing criminals. But benevolent institutions are always expensive; and if the cause of humanity has been promoted, if scenes of barbarity, which harden and deprave the heart, have been removed from the public eye, if a few instances only of repentance and reformation have been wrought by this mild and salutary correction; surely these are blessings worth purchasing, even at a greater price.

This institution may be considered as an advantage to the community, in another point of view. In process of time, the greater part of notorious offenders are collected and imprisoned here; and being sentenced to five or six, or ten years confinement, (and many for life), society for so long a time, is freed from their depredations; and thus in some measure, the peace and security of the public is increased, as well as the cause of benevolence and humanity promoted, by this mode of punishment.

By the reports of the physician, the state of the Prison has been very healthy. The convicts but seldom complain of their diet, clothing, or accommodations, and every attention is paid to cleanliness, on which the health of such an establishment essentially depends.

A register is kept of the daily admissions into, and dis-

No. 2.

[To face p. 84, Appendix.

ABSTRACT OF THE NUMBER OF CONVICTS IN THE MASSACHUSETT STATE PRISON,

The Manner of Employing them, and the Receipts and Expenditures of the Institution,
during the Year ending September 30, 1817.

| | Shoe- makers. | Employed for the Prison. | Dis- charged. |
|--|------------------|------------------------------------|------------------|
| Hospital, for Medicine, &c. | 645, 83 | | |
| For Clothing and Bedding | 6,425, 61 | | |
| Transport of Prisoners | 1,057, 21 | | |
| Paid Prisoners discharged | 93, 91 | | |
| Labour for Stock, Raw Materials, &c. | | | |
| | | Amount credited Labour Department, | |
| | | For Shoemakers | 3,003, 03 |
| | | Screwcutters | 744, 75 |
| | | Nailors and Filers | 2,114, 15 |



charges from the hospital; the average number on the list, has been about 16, and the following will exhibit the complaints.

| | | | |
|--|----|--|------|
| Aneurism of the heart | 1 | Pneumonia | 54 |
| Apoplexy | 1 | Plethora | 6 |
| Cachexy | 1 | Pregnancy | 1 |
| Cynanche Parotidæa | 5 | Pyrexia | 41 |
| Diarrhœa | 1 | Psoas Abscess | 1 |
| Dyspepsia | 12 | Rheumatism | 35 |
| Epilepsy (mostly from in- temperance) | 28 | Scrophula | 10 |
| Erysipelas | 4 | Swollen feet | 6 |
| Hemoptysis | 18 | Venereal complaints in va- rious stages | 63 |
| Hydrocele | 1 | Accidents, Colds, Contu- sions, Costiveness, Debi- lity, Fractures, Ulcers, Wounds, &c. | 1091 |
| Hernia | 6 | | |
| Icterus | 13 | | |
| Mania | 4 | | |
| Phthisis Pulmonalis | 15 | | |

The number of deaths has been 36

And the diseases as follow;

| | | | |
|-------------------------------|---|-------------------------------|----|
| Apoplexy | 1 | Phthisis Pulmonalis | 14 |
| Cachexy | 1 | Syphilis | 1 |
| Hernia Strangulated | 1 | Typhus | 15 |
| Mania | 1 | Wounds, Gun Shot | 2 |

The number now in the hospital, including nurse and cook, is 14

The appointment of a chaplain to the institution, and the provision made for religious worship within the Prison, sufficiently denote the benevolence of the government, and those pious sentiments and feelings in the community, which we inherit from, and which so eminently distinguished our venerable ancestors. The services of the chapel are regularly performed every Sunday, by the chaplain, or other gentlemen of the clergy. The convicts are obliged to attend, and from their orderly behaviour, attention, and apparent devotion, there is reason to believe, that most of them consider it as a high and holy privilege, and are benefited by the moral and religious instruction which they receive.

No. VI.

Commonwealth of Massachusetts.

In Senate, June 3d, 1817.

ORDERED,—That so much of His Excellency's Speech, as relates to the State Prison, be committed to the Hon. Messrs. Pickman and Sullivan, with such as the Honourable House may join, to consider and report.

Sent down for concurrence.

JOHN PHILLIPS, *President.*

House of Representatives, June 4, 1817.

Read and concurred, and Messrs. Stearns of Charlestown, Lincoln of Worcester, and Breed of Lynn, are joined.

TIMOTHY BIGELOW, *Speaker.*

In Senate, June 4, 1817.

The Hon. Mr. Sullivan is excused from serving on this Committee, and the Hon. Mr. Noble is appointed in his room.

JOHN PHILLIPS, *President.*

*To the Honourable the Senate and House of Representatives,
in General Court assembled.*

The Commissioners appointed, pursuant to a Resolve of the Legislature, passed on the thirteenth day of December last, "To inquire, by the most ready and economical manner, into the mode of governing the Penitentiary of Pennsylvania, and others of a similar nature—to consider at large the subject of the State Prison, and to report any improvement which can be made in the government, organization, or enlargement of that establishment—with leave to report by bill or otherwise, at

the first session of next General Court," respectfully submit the following

REPORT.

Presuming it to have been the intention of the Legislature, in adopting the Penitentiary System, as a substitute for sanguinary punishments, to carry that system into complete operation, the Commissioners thought it their duty to advert to its strict principles, and to make them a guide in their inquiries into the government and operation of the several penitentiary institutions in the United States; that not only their improvements, if any appeared, might be adopted, but that any defects might be remedied, or deficiencies supplied, which should be found common to these and our own institution.

The Commissioners have inspected, by one or more of the Board, the several Penitentiaries or State prisons of Connecticut, New York, New Jersey, Pennsylvania, and Maryland.

During a few years after the establishment of the Penitentiary at Philadelphia, this institution was provided with sufficient room, and the proper accommodations for a separation of the convicts from each other. By the vigilance of the keepers, all intercourse and communication was prevented by day, and, at night, the prisoners were lodged in solitary cells. It will appear from the experience of this institution and that at new York, that constant employment, and the usual means of instruction in morality and religion, are ineffectual for the reformation of criminals, (the great object of penitentiary establishments), unless they are debarred from all intercourse. The natural effect of a state of society amongst them is so obviously to counteract the penitentiary discipline, and to cherish the corrupt dispositions, which form the bond of union, and the basis of all sympathy, among this class of men, that the establishment which admits of this indulgence, may, with strict propriety, be called a *school of vice*. To make this apparent, it will be only necessary to exhibit to the Legislature a comparative view of the Pennsylvania institution, at two different periods. And for this purpose, the following passages are quoted from a

recent publication, entitled, *A Statistical View of the Operation of the Penal Code of Pennsylvania.*

"After the penitentiary system had been in operation," says this publication, "not more than two years, such was its efficacy, that out of near two hundred persons, who had been pardoned, only *four* had returned; there had been but two instances of conviction of *picking pockets* or *burglaries* in the city and county for near two years; the number of persons convicted in the several courts had constantly decreased. Such were the means then in the power of the inspectors, of executing the system in its spirit and design, with the aid of extensive accommodations and sufficient and suitable labour, that the apartments in the prison, and the prison yard, afforded convenient and ample room for the separation and employment of the convicts: and, finally, so productive was their labour, that, when discharged, *considerable balances* were found in favour of some, and there were but few who had not more or less; those balances often exceeded *ten pounds*, and some of the prisoners appropriated part of their earnings to the support of their families. Such at that time was the happy effect of the system when properly executed."

"The present state of the Penitentiary," says the same publication, "affords a striking contrast: the building in which the prisoners are confined, and the yard in which they are employed, are the same used for those purposes in the year 1795; no additional accommodations, either for the lodging or employment of the convicts, have been provided. A recent presentment of a respectable Grand Jury of the county of Philadelphia, will enable every one," says this publication in continuation, "to appreciate the importance, indeed, necessity, of giving due efficacy to this benignant system." They say, "that while they notice with pleasure the high degree of order and cleanliness, they are compelled, by a sense of duty, to present, as an evil of considerable magnitude, the present very crowded state of the Penitentiary. The number of persons of all classes continues to increase, so that from

" twenty to forty are lodged in rooms of eighteen feet square. So many are thus crowded together in a small space, that the institution already begins to assume the character of a European prison, and a seminary for every vice—in which the unfortunate being who commits a first offence, and knows none of the arts of methodized villainy, can scarcely avoid the contamination which leads to extreme depravity."—Such is the actual state of the Pennsylvania Penitentiary.

The Penitentiary at New York was as successful in its operation, as that of Pennsylvania formerly was, while under like favourable circumstances—when the prisoners were properly assorted while at work and at meals, and the influence of solitary confinement at night, was added to that of a faithful inspection on the part of the keepers during the day.

It appears by the Report of Commissioners recently appointed to examine into the state of this institution, that "it has, for some time past, not only failed of effecting the great object chiefly in view, but has subjected the Treasury to a series of disbursements too oppressive to be continued, if they can in any way be prevented." The sources of the evils noticed in the same Report are stated to be—the neglect of providing in season the necessary accommodation for the due separation of the convicts, and the present crowded state of the prison; to which may be added, as derived from another respectable source, a relaxation of the steady and strict discipline introduced and maintained by a respectable member of the society of Friends, for a short period after the institution was established. In the management of the same establishment no inconsiderable embarrassment has arisen from the injudicious use of the power of pardon. Both in Europe and America, it has been attended with serious evils under the penitentiary system, and has been found almost fatal to the usefulness of every similar institution. Under severe and sanguinary laws, crimes are often committed with impunity, from the difficulty of procuring the conviction of offenders. The dictates of humanity operate to silence the accuser, and to warp the jury and court

from the line of duty.* The greater certainty of punishment under the penitentiary system was among the most powerful arguments in its favour—the mildness of its character not giving countenance to any such impediments to the course of justice. But if the power of pardon is frequently exercised, the utility of the Penitentiary ceases, for not only do those who have the benefit of pardon escape with impunity, but all, however corrupt and little deserving of favour, are encouraged to dissemble—they put on the exterior of penitence, and evade the severer part of the discipline of the prison. While, on the contrary, had they little or no hope of pardon, or were their doom irrevocable, there would be no inducement to dissemble—the real character of every individual would show itself, and would be met by the proper and necessary discipline.

How little the common appearances of reformation or amendment are to be trusted, will appear from the fact, that out of *four hundred and fifty-one* convicts, now in the Penitentiary at Philadelphia, *one hundred and sixty-two* have been before convicted or pardoned. In the prison at New York, of all those who have, within the last five years, been committed for *second* and *third* offences, about *two-thirds* have been discharged from their former sentences by pardon. There appears to be great force in the sentiments of Beccaria, connected with this subject. “As punishments,” says he, “become more mild, clemency and pardons become less necessary. Clemency is a virtue which ought to shine in the code, and not in the private judgment. The prince in pardoning, gives up the public security in favour of an individual, and by the exercise of this species of benevolence, proclaims a public act of impunity. Let the executors of the law be inexorable; but let the Legislature be tender, indulgent, and humane.”

* In France, under a law by which a servant who robs his master is punishable with death, the severity of the law is found to counteract itself. For, from the fear of incurring public odium, masters are unwilling to enter complaints, and thus the severity of the punishment is the occasion of crimes passing with impunity, which under a milder law might have been repressed.—*Vide Observations par M. Servant, Avocat Gen. de Grenoble.*

The Commissioners, believing that too much cannot be said on a topic affecting so nearly the welfare of the Commonwealth, quote the following passage from the late Henry Fielding, Esq. a distinguished magistrate of the city of London, on the impolicy and inhumanity of allowing convicts to live in a state of society together. "It is," says he, "a great evil to confine all sorts of prisoners promiscuously together. In some gaols you see boys of twelve or fourteen years of age, eagerly listening to the stories told by practised and experienced criminals, of their adventures, successes, stratagems, and escapes. A discharged criminal generally by the next sessions after the execution of his comrades, becomes the head of a gang of his own raising, improved in skill by the company he kept in gaol. And petty offenders generally grow desperate, and come out fitted for the perpetration of any villainy. Half the robberies committed in and about London are planned in the prisons. How contrary this to the spirit of our laws with regard to petty offenders, which certainly is to correct and reform them; instead of which, their confinement doth notoriously promote and increase the very vices it was designed to suppress. Multitudes of young persons, committed for some trifling offence, are totally ruined."

Evil company is proverbially a source of depravity. In a society of criminals, there are degrees of wickedness—from those who through infirmity and the concurrence of powerful temptation, have committed only a first offence, to those who are wholly reprobate and abandoned. How, then, it may be asked, is it to be reconciled, that in any civilized country, convicts are brought into promiscuous association to pass years together, the young with the old and hardened offender, the tame and the weak with the bold and artful; all united under the influence of a public opinion, as strong in its support of vice, as that which rules the community abroad is in support of virtue?

The State Prison of this Commonwealth reflects credit on the warden and keepers, for the great degree of order and neatness every where observable in the prison, and for the correctness of the ordinary demeanour of the convicts: but

that *three hundred* persons of this description should be found living promiscuously together, appeared to your Commissioners an alarming evil. In some of the rooms *four*, and in others *eight* of the convicts are lodged at night without an inspector. Some of the immediate effects are perceivable in the frequent conspiracies for escapes, in occasional turbulence, and recently, within the last year, in a daring attempt on the part of the convicts to force their way over the walls in broad day, and in face of the guard. How little reformation can be expected under existing circumstances may be judged from the single fact, that *ninety* persons are now under commitment for a *second, third, or fourth* time.

The only advantages which the Commonwealth appears to derive from the State Prison established in its present condition, are--1st, the protection afforded to the community against the criminals during their confinement; 2dly, the value of the earnings of the convicts, which may be supposed to be so much gain, since the greater part of this class of men, when at large, live at the expense of the community, without labour. But there appears great reason to suppose, that the advantage first mentioned is more than counterbalanced by the greater hardihood and more settled corruption, which a promiscuous association among the convicts must produce, particularly the young. Nor can it be thought that the earnings of the convicts are properly a gain to the Commonwealth, if we look at its substantial interests, for they are in fact gathered into the treasury, (in the situation in which these men are now placed) at the expense of the little sensibility to moral obligation, which remains to them on their entrance to the prison. Within the short period of three years, more than one half of the whole number of convicts, by the terms of their sentence, are again to be let loose upon the community, without probably a single instance of reformation, unless the system of management be promptly reformed.

In considering "the subject of the State Prison at large," as the Commissioners were instructed to do, they were compelled by a sense of duty to submit the alternative to the consideration of the legislature, either that the institution be

abandoned as useless, or bad in its tendency, or that it be renovated on the basis of a Penitentiary, with all the known and practicable means to answer its proper design.

On a question of this nature, and one of so much importance, the Commissioners are happy to avail themselves of the opinion of a philanthropist so distinguished as the late Mr. Howard. "I have not," says he, "considered the subject of "a Penitentiary superficially.—Many have been reclaimed "and made useful members of society in foreign houses of "correction. But it is to be remembered, that in most of "the prisons of this description, there are so many rooms "that each prisoner is kept separate."

There are now within the State Prison of this Commonwealth *four* persons under the age of *fourteen* years, *thirty-four* persons between *fourteen*, and *twenty-one* years, and *one hundred* and *forty-nine* between the age of *twenty-one* and *thirty*, making an aggregate of *one hundred* and *eighty-seven* persons under the age of thirty years. Many of these were, probably, brought up to no particular employments; for of *five hundred* and *twenty-two* convicts entered at a former period at the prison in New-York, *two hundred* and *eighteen* were noted as having no particular occupation. Some were the offspring of abandoned characters, or early fell to the charge of unfaithful guardians; or, from other circumstances have been thrown upon the world, without the proper habits to conciliate the confidence of an employer, and acquire an honest livelihood.

Facts of this kind, the truth of which is supported by the character of every large community, suggest the question, how far it is obligatory upon every humane and enlightened government, which has adopted the penitentiary system, to give to its Penitentiary, such latitude of accommodation as will save from further contamination by vicious society, those who have been early misled and are still young and inexperienced? And further, to make such provision for instruction in common school learning, as will supply their own neglect or that of parents and guardians. Adequate provision appears to have been made by the laws for the establishment of public schools; but as no penalty is imposed on parents

who fail to send their children, the advantage, generally speaking, falls to the lot of those only whose connexions are reputable.

Among the convicts, there are, without doubt, many who have had no opportunity to profit of any public provision for instruction, either literary, moral, or religious, until they have become subject to the discipline of the State Prison. Private offences are the source of public crimes. The best method of guarding society against the latter, is to make proper provision for checking the former.*

Should the legislature deem it expedient to adopt the penitentiary system in all its rigor, and to reserve it for an intermediate class of criminals whose term of confinement shall always exceed three years, leaving the punishment of death still annexed to certain offences, it will become a question, whether to punish petty offences by corporal punishments or by confinement in Bridewells, fitted for the purpose on the plan of the Penitentiary?

The public sentiment throughout the civilized world, is now more adverse to corporal and sanguinary punishments than at any former period. And this aversion appears to have gradually increased with the progress of society.† In England in the reign of Henry 8th, there were seventy-two thousand capital executions, being at the rate of 2000 a year.

In the reign of Elizabeth, the average number each year was 400.

At a later period, the number of convicts and executions in London and the county of Middlesex was as follows:

| | Convictions. | Executions. | Proportion. |
|----------------------------|--------------|-------------|-------------|
| At the Old Bailey, in 1749 | 61 | 44 | 2-3 |
| 1750 | 84 | 56 | 2-3 |
| 1751 | 85 | 63 | 3-4 |
| From 1749 to 1756 | 428 | 306 | 3-4 |
| 1756 to 1764 | 236 | 139 | 1-2 |
| 1764 to 1772 | 457 | 233 | 1-2 |

* Author of the Police of London.

† Observations on a Pamphlet, entitled, Thoughts on Executive Justice.

| | Convictions. | Executions. | Proportion. |
|------------------|--------------|-------------|-------------|
| In the year 1802 | 97 | 10 | 1-10 |
| 1803 | 81 | 9 | 1-9 |
| 1804 | 66 | 8 | 1-9 |
| 1805 | 63 | 10 | 1-6 |
| 1806 | 60 | 13 | 1-5 |
| 1807 | 74 | 14 | 1-5 |
| 1808 | 87 | 3 | 1-29 |

When it is recollected, that the population of London in the year 1750 was 700,000, and about 900,000 in the year 1800, it will be evident, that the number, both of convictions for capital offences and of executions, has been constantly diminishing.

For the crimes of forgery and robbing the mail, in England, the law has been always executed with the utmost severity, yet those crimes were never more frequent in England than during the last twenty years.*

Since the introduction of the penitentiary system into the United States, those crimes, which were before punishable with death, and afterwards by confinement for life, do not appear to have increased.

The number of convictions for highway robbery in Pennsylvania, for a period of seven years immediately preceding the establishment of the penitentiary, viz:—

| | |
|------------------------------|--------|
| From 1779 to 1786 | was 35 |
| Afterwards—From 1787 to 1793 | 59 |
| 1794 to 1801 | 10 |
| 1802 to 1809 | 5 |
| 1810 to 1815 | 15 |

The number of convictions for Burglary, from

| | |
|--------------|--------|
| 1779 to 1786 | was 54 |
| 1787 to 1793 | 53 |
| 1794 to 1801 | 20 |
| 1802 to 1809 | 57 |
| 1810 to 1815 | 48 |

It will be recollected that the population of that state, had more than doubled in the period from 1779 to 1810, and that the increase of these crimes, had it been in the ratio of

* Sir Samuel Romilly's Observations, &c. p. 71.—1808.

population, would have been in the last mentioned year compared with the first, somewhat greater than as two to one.

In the state of New-York,—the number of convictions for highway robbery, from the year 1797 when the penitentiary was established, to the year 1805, was only *one*.

For burglary, within the year

1797 . . . 10

1798 . . . 5

1799 . . . 8

1800 . . . 3

1801 . . . 6

Under laws which inflict sanguinary punishments, there appears to be less certainty that criminals will be convicted, and less of the punishment being inflicted with the severity intended. As means of preventing crimes, they are not to be relied upon, as the effect upon spectators is oftener to excite compassion for the sufferer and disgust at the law, than either terror or sober reflection. The criminal smarting with the punishment, and stung with shame and resentment, or hardened by public exposure, is again let loose upon the community, in a frame of mind unfavourable to reformation. If not reformed, there can be little probability of his maintaining himself by his own industry. Instead of the simple and regular diet and plain clothing prescribed at a Penitentiary, and which his own labour would contribute to supply, he revels in debauchery and gratifies a depraved vanity, at the expense sometimes of a suffering family, but, generally, of the community. Such an example cannot fail to have a pernicious influence.

In a Penitentiary, a separation of convicts into classes formed with reference to their habits, propensities, and character, is an indispensable arrangement regarding their reformation. This separation can at present be very imperfectly effected in the Penitentiary of this Commonwealth. Nor indeed is it practicable any where, if convicts of every grade are brought to the same place for punishment. The Commissioners would therefore respectfully recommend, that no person be confined within the State Prison, whose crime does not require imprisonment for a period exceeding three

years, and that provision be made by law for otherwise punishing inferior offences.

Among the reasons, in addition to the foregoing remarks, which induce this recommendation, the Commissioners would beg leave to suggest—

1st. That the State Prison, being the highest punishment known to our laws in cases not capital, should be reserved for the highest class of crimes, and the most daring offenders.

2. That a period of less duration cannot give hope of reformation, or be expected to alter by its discipline, existing habits of wickedness and depravity.

3d. Because the present buildings at Charlestown, must be greatly enlarged in order to confine and employ all those, who under the present system of punishment will be sentenced to imprisonment. This last fact is worthy of particular attention. The number of State Prison convicts has annually and regularly increased. This will probably continue to be the case; as population increases, crimes multiply. It becomes necessary to anticipate and prepare for this increase of convicts, before they are actually too numerous to be kept in safety within the walls of the prison.

But instead of recommending such an enlargement of the present buildings, as a continuance of the present system would require, the commissioners have deemed it a wiser policy, that the number of convicts confined there should henceforward be diminished, and places elsewhere provided for the punishment of inferior offenders. And with this view they have recommended the erection of Bridewells in different parts of the Commonwealth; the good effects of such establishments having elsewhere been tested by experience, and being, in fact, conformable to the spirit of existing laws.

If no convicts, other than those whose crimes require an imprisonment exceeding three years, were sent to the State Prison, and if females, (to whom this punishment is peculiarly inappropriate), were otherwise confined, it is believed the State will not be called on for a long time yet to come, to make extensive buildings within the walls of the Penitentiary.

With a view therefore of keeping the present Institution

for the purposes for which it was originally intended, the Commissioners have deemed it necessary, that it should be relieved from inferior criminals, and that these should be punished by confinement in Bridewells. A plan for this purpose is proposed, which they have the honour to annex, entitled, "An Act for the amendment of the criminal code in certain cases," by which their ideas are more fully explained.

It is believed that the confinement of petty offenders, who have generally but just entered upon the career of vice, in the secluded rooms of county Bridewells, with regular occupation during the day, might in many cases not only have a salutary effect, but even produce entire reformation. The Dorsetshire prison in England may be cited as affording the most satisfactory proof, that such a result may be calculated upon. On inquiry made into the character of all the Dorsetshire prisoners on charges of felony, during the period of fourteen years, it has appeared that out of *three hundred and ninety-three* persons of both sexes, no less than *two hundred and forty-two* have been so well reclaimed, as to maintain themselves by honest industry.*

"We rejoice," says a respectable Literary Review,† "that this excellent spirit of improvement has displayed itself in many other quarters; and feel no small pride in the admirable construction and management of the county Bridewell, in our own city of Edinburgh. The noble example of the county gaol in Dorchester, shows most convincingly, that it is no idle speculation to expect an essential and permanent reformation of manners, when moral and religious instruction is impressively administered, when intemperance is prohibited, when the different classes of prisoners are kept apart from each other, and when they are well furnished with regular employment, and receive at least a share of the profits of their industry. ‡ Considering the disorders which prevail among the lower classes of life, it is astonishing we have not more robberies. It is our interest as well as duty to remove

* Nelld on the Prisons of England.

† Edinburgh Review,—January 1814.

‡ Sir S. Romilly.

that evil." The proper corrective is the establishment of well regulated Bridewells.

In the different penitentiaries visited by the Commissioners, the discipline was found to be very nearly the same. The refractory are punished by solitary confinement and low diet; the idle are punished in the same manner. One of the great defects observed in the prison of New York, where there are *seven hundred and fifty-three* convicts, was the want of room. More than one hundred persons for this reason have either no tasks assigned them, or when given, if not performed, no notice is taken of it. The Board of Directors, both in the Philadelphia and New-York prisons, is composed of a greater number than at our own prison. No salary is annexed to the office in either. One of the regulations of the Penitentiary at Philadelphia and that at New-Jersey, ought to be mentioned, as it would be attended with some advantages if adopted here.

An account is opened with each prisoner on his entrance into the prison. He is charged with his clothing, maintenance, medicine, &c. and credited with the proceeds of his labour. At the close of his term of confinement, if a balance appears in his favour, the one half is paid to him, the other is retained, to be applied towards defraying the general expenses of the institution. A few among the more robust and industrious of the convicts, have received considerable sums. The tendency of this regulation is undoubtedly good. It operates as an incentive on those who retain an interest in their families, and holds out to all one of the strongest inducements to industry.

The expense is found to be every where one of the most popular objections to the penitentiary system.—This objection is perhaps founded in the disappointment of a vague expectation, that such an institution would support itself by the profit on the labour of the convicts, rather than upon any general view of the loss or actual charge to the Commonwealth, compared with that which would attend or grow out of, the plan of summary corporal punishments. If a period of three years be assumed, as the basis of an estimate, would the expense, your Commissioners ask, be greater in maintain-

ing one hundred convicts during that period at the State Prison, (the cost of keepers included) than the amount of loss and injury sustained by the community, by that number of idle and profligate men, at large in the bosom of society? The reason the burden is not now felt by the community as such, of the criminals now abroad, is that the weight of the injuries inflicted falls on individuals, and is considered as private misfortune. But could the aggregate of secret depredation and extravagant waste, necessary to supply the ordinary cravings and licentious desires of this class of men, be ascertained, it would be found to exceed, many-fold, the expenses of the penitentiary institution, in supplying the regulated wants of the same number of men.

It is not to be expected that a penitentiary will support itself. "However it may appear in theory," says a writer,* whose means of information were ample, "in practice it is always found otherwise. The difference is great between involuntary labor, and that which is performed from choice." The Commissioners are aware how important an object it is, to diminish as much as possible the expenses of the State Prison. And as an apprehension that these are greater in proportion, than those of similar institutions in the United States, may induce the legislature, with a view to greater economy, to adopt some measures or to neglect others, by which the utility of the establishment may suffer, the Commissioners submit the following comparative view of the Pennsylvania, New York, and Massachusetts State Prison expenses, during the year 1816, drawn from official documents.

In the Pennsylvania prison, the number of prisoners of every description, in December, 1816, was 652.

| | |
|---|------------------|
| Annual charge for supplying convicts in 1816, including provisions, clothing, medicine, and shoes | D. 45,651 55 |
| Salaries of officers | 9,569 00 |
| | <u>55,220 55</u> |
| Value of labour performed by the convicts, same time | 18,809 00 |
| Actual expense | D. 86,411 55 |

* Howard.

Number of convicts in the prison at New York, 759.

Annual expense to the State, as by the report

of Commissioners D. 40,000 00

Massachusetts State Prison.—The number of convicts, as appears by the warden's report, in September, 1816, 273— (now 899.)

Expense to the State in the year ending Sep-

tember, 1816 D. 13,000 00

The latest annual report of the expenses of the New Jersey State Prison, which the Commissioners were able to procure in their visit to this prison, states an annual account as follows. Number of convicts, 54.

Cost of provisions, medicine, and

clothing D. 2,508 11

Value of convicts' labour for the same

time 574 44

Actual expense D. 1,933 67

The cost of the State Prison in Baltimore, to the State of Maryland, is about 6,000 dollars annually. The number of prisoners, in April last, was 274.

The Penitentiary at Richmond, in Virginia, which the Commissioners were unable to visit, but respecting which they have obtained some authentic information, appears to be more costly than any similar institution. By an account current for the year 1815, the balance against the State for the support of the prison, was upwards of *fourteen thousand* dollars. And in answer to some enquiries, addressed to a highly respectable individual at Richmond, it appears that a grant of upwards of *thirty-one thousand* dollars, was asked of the State for the expenses of last year.

No accounts have been obtained of the expenses of the Connecticut State Prison. But supposing the prisoners to pay by their labour for their food and clothing, (and as they are allowed the same rations as the guards, this will be a favourable supposition, compared with the experience of other prisons) the State will have to defray the annual expense of the guard, and repairs of the prison. The expense of the guard alone may be estimated at 5,500 dollars annually. This State

Prison has few of the features of a Penitentiary, and probably existed long before this milder institution was known in this country. It seems to rely for its efficacy rather on the terror it may inspire by its discipline, than upon any direct measures for the reformation of the convicts, and offers nothing which can be adopted in the way of improvement in our own State Prison. The number of convicts is *seventy*, some of whom have been committed for a *second* and *third* time. The *pit*, in which the convicts are confined at night for safe keeping, was anciently a copper mine. A space of ground around the entrance into the pit is inclosed by a brick wall, within which is the keeper's house and other buildings. The prison is kept by a military guard, consisting of a captain, serjeant, *two* corporals, and *seventeen* privates.

In the following statement of the cost of the convicts to the different States, a great disparity will be observed between some of them; and where this is greatest, it may be reasonably doubted if the documents, on which the calculation is made, are accurate. They are, however, the best that could be obtained.

Cost of maintaining convicts to the State, annually :—

| | |
|------------------------|-------------------|
| In Massachusetts . . . | 47..60 dol. each. |
| New York | 53..00 ditto. |
| Connecticut | 76..57 ditto. |
| New Jersey | 35..80 ditto. |
| Pennsylvania | 53..84 ditto. |
| Maryland | 20..00 ditto. |
| Virginia | 90..00 ditto. |

Although the expenses of the State Prison of this commonwealth are less than those of the prisons of other States, there is reason to believe they may be still further diminished by such changes in the establishment, as will make it more useful as a Penitentiary.

Under the penal code, as it now is, more than half the convicts are sent to the State Prison for periods less than three years. Many of them are habituated to a vagrant life, and cannot without difficulty be brought to labour with constancy; and by the time they have acquired so much skill,

as to make their labour profitable to the institution, the term of confinement has expired.

Were the convicts separated into classes, consisting of a small number of persons, they might be more narrowly inspected while at their work than at present, and there would be less waste of materials, either from carelessness or by design.

The present receipts from the labour of the convicts, averaged on the whole number, does not exceed *seventeen and a half cents* per day, as appears from the following calculation.

In September, 1816, the whole number of prisoners was 273.

The receipts of the prison for the year ending

| | |
|--|--------------|
| September, 1816 | D. 17,773 61 |
| Value of stock purchased within the | |
| year | 9,224 50 |
| Stock on hand, September, 1816 | 5,797 40 |

Difference, is the stock consumed within the year, (if there were none on hand at its commencement)

3,447 10

| | |
|---|-----------|
| Value of convicts' labour during the year | 14,326 51 |
| From the whole number of convicts | 273 |
| Deduct as. unproductive—labourers and un- | |
| employed,—cooks and washers | 11 |
| Barbers and waiters | 8 |
| Prison tailors | 10 |
| Carpenters and masons employed about the | |
| prison | 5 |
| Sick | 15 |
| In solitary confinement | 1 |
| Females | 18 |
| Infirm and unmanageable | 21 |

Total 91

Difference, whole number of men whose labour may be supposed productive 182

| | |
|---|--------------|
| The labour of 182 men, at 40 cents per day, for 300 days, would be | D. 21,840 00 |
| Of 18 females, at 20 cents | 1,080 00 |
| | <hr/> |
| | 22,920 00 |
| 182 men, at 25 cents per day, for 800 days . . | 13,650 00 |
| 18 females, at 12½ cents | 675 00 |
| | <hr/> |
| Equal to the receipts for labour in 1816 . . | D. 14,325 00 |

RESULT.—300 days labour of 182 men, at 25 cents per day, and of 18 females at 12½ cents, equal to the value of productive labour performed at the prison by 273 convicts, in the year ending September, 1816.—Average 17½ cents. on that number.

To increase the value of productive labour, it is necessary to apply to the convicts the influence of motives to industry, beyond those already in operation. Two provisions for this purpose are contained in a bill for the better government of the State Prison, hereto annexed.

It was part of the original design of penitentiary establishments, that the convicts should be actually employed, during the term for which they are sentenced, in hard labour; but as our prison is governed, he is sure of his liberty at the end of a definite period, whether he has been idle or industrious. If it were understood by the convicts that they could free themselves from confinement only by their industry, and that their return to society would depend wholly on their own exertions, a new spirit would prevail amongst them, which would insure the performance of their assigned tasks. Some small reward for extra exertion might advantageously be added, as is found judicious in similar institutions.

To diminish the existing expense of the prison, the Commissioners have recommended a disbandment of the military guard, which experience has proved to be less useful than expensive; and have also proposed to concentrate the duties of the warden and clerk, which are found united at other prisons without any inconvenience.

The Commissioners have also confidence enough in the regard, which is paid by their fellow-citizens to this great

experiment of humanity, to suppose that men of the first intelligence and character would undertake its direction without pecuniary emolument.

To diminish the labour, they have proposed an enlargement of the number of directors, and trust that men of high and active benevolence will not be wanting to aid the operations of this important institution, by the voluntary contribution of their services. These changes will diminish the annual expenses more than four thousand dollars.

They have also recommended the erection of two additional buildings. The first of these, to be constructed of stone, for the purposes of a hospital, to contain under the same roof, rooms for the sick, and solitary cells for the punishment of disorderly convicts. These two classes being removed to this building, a sufficient number of rooms will be added to the main building to allow of the convicts being separated at night, which they have previously shewn to be of the first importance to the usefulness of the institution. Besides this object, this building is wanted for the purpose of having solitary cells so constructed, that there can be no communication, by the voice, between persons confined in the adjoining cells. It is well known that seclusion in these cells is the most effective of all punishments, in reducing the refractory to submission. In the cells now used, the discipline of the prison is considerably impaired, as the convicts cannot be prevented from talking to each other. They are also extremely damp; and if a convict be confined in them long enough to operate as a punishment, he is frequently obliged to be taken from them to the hospital. The convicts can be employed in almost all the labour necessary for the erection of this building; and there is a considerable quantity of refuse stone in the yard, which can be used in the walls. The other building is proposed to be placed outside of the present walls, and may be erected of wood, at a small expense, as it is only recommended by way of experiment. The convicts who are discharged are often entirely destitute. The natural prejudice against them is so strong, that they find great difficulty in obtaining employment. They are forced to seek shelter in the lowest receptacles; and if they

wish to lead a new course of life, are easily persuaded out of it, and perhaps driven by necessity to the commission of fresh crimes. It is intended to afford a temporary shelter in this building, if they choose to accept it, to such discharged convicts as may have conducted themselves well in prison, subject to such regulations as the directors may see fit to provide.

They will here have a lodging, rations from the prison at a cheap rate, and have a chance to occupy themselves in their trade, until some opportunity offers of placing themselves where they can gain an honest livelihood in society. A refuge of this kind, to this destitute class, would be found, perhaps, humane and politic.

There is one subject not immediately within the scope of the duty of the Commissioners, but which has naturally excited their attention from its connexion with the particular objects of this inquiry ; this is, the state of the county prisons within this Commonwealth. They are not in the possession of authentic facts, which will enable them to express a decided opinion on the management of these prisons ; but from circumstances, which have come incidentally to their knowledge, they are induced to believe, that an examination of their actual condition and management is expedient ; they therefore recommend, that a commissioner or commissioners should be named for this purpose, who should inspect the county jails, and report a state of facts concerning them, and whether any alterations or improvements are requisite.

In conclusion, the Commissioners ask leave to observe, that they have attended anxiously to the important duties assigned them ; they have omitted no opportunity of conversing with men of observation and experience in different States, and who held various opinions on the subject of the penitentiary system, and have perused all the writers on the subject, whose works they could obtain ; and they are decidedly of opinion, that every motive of policy and humanity, should urge the legislature of Massachusetts to have the system fairly and fully tried in this State.

There are three general modes of punishment, which have been attached to the penal code of different nations ; corporal

and sanguinary inflictions, transportation, and confinement at hard labour.

The first, equally deplorable for its inefficacy and barbarity, has been almost universally abandoned in the United States, and is gradually giving place to a milder system in other countries.* The second, nearly useless, and enormously expensive, is about being renounced by the only nation that has tried it to any extent.† The last, which has of late years been strenuously recommended by many eminent legislators and philanthropists, has never yet been fully carried into effect, except for a short period. Where the experiment has been fairly made for a short time, it has amply justified, in practice, all the principles which render it

* The late Emperor of Germany, Joseph II. by an edict, in 1787, abolished the punishment of death. "His new code, formed in an enlightened age by princes and civilians, and men of learning, who sat down to the deliberation, assisted by the wisdom and experience of former ages, and by all the information possible with regard to the practice of civilized modern nations; with an impression, also, upon their minds, that sanguinary punishments, by death, torture, or dismemberment of parts, are not necessary, and ought to be abolished; becomes an interesting circumstance in the annals of the world." *Author of Police of London. See Howard on Prisons.*

† The great distance of New South Wales has not proved a bar to the return of a considerable number of the more atrocious and adroit thieves, several of whom are known to be again upon the town. *Police of London*, page 248.

The most prominent objection is not to the species of punishment, "but to the enormous expense attending it." *Police of London.*

Sir John Sinclair, in his *History of the Public Revenue*, published in 1790, vol. ii. page 89, makes the following observation, as quoted by the above work.

"About 100,000 pounds has already been laid out, in attempting to establish a very unpromising colony in New South Wales. At the most moderate calculation, if the same measures are pursued, the punishment of petty offenders will cost above 50,000 pounds per annum."

From accounts and papers laid before the House of Commons, relative to the convicts transported to New South Wales, in April, 1791, and March, 1792, it appeared, that in a period of four years there had been expended the sum of 490,943*l.* 17*s.* 10*d.* sterling. *Author of Police of London.*

so satisfactory in theory. The Commissioners trust, that the legislature of Massachusetts will not be prevented, by any inferior considerations, from persevering in the improvement of the public prisons, till the system shall have been fairly tried, till experience shall have proved its inefficiency or demonstrated its superiority.

R. SULLIVAN,
JAMES T. AUSTIN,
WILLIAM TUDOR, Jr.

No. VII.

Ordonnance du Roi qui porte que les jeunes gens âgés de moins de vingt ans, condamnés pour crimes, seront extraits des Prisons de Paris ou des départemens environnans, et réunis dans une Prison d'essai, et annulle l'Ordonnance du 18 août dernier.

Au château des Tuileries, le 9 Septembre, 1814.

LOUIS, par la grâce de Dieu, Roi de France et de Navarre, à tous ceux qui ces présentes verront, SALUT.

Voulant établir dans les prisons de notre royaume un régime qui, propre à corriger les habitudes vicieuses des criminels condamnés aux fers par sentence des tribunaux, les prépare, par l'ordre, le travail et les instructions religieuses et morales, à devenir des citoyens paisibles et utiles à la société quand ils devront recouvrer leur liberté; et voulant assurer le succès de cet établissement général que nous nous proposons, par un essai qui ne laisse à l'avenir aucune incertitude sur l'ensemble et les détails de l'administration de ces maisons, AVONS ORDONNÉ ce qui suit :

Art. 1. " Tous les prisonniers condamnés pour crimes par sentence des tribunaux, et d'âge au-dessous de vingt ans, pris sans choix dans les prisons de la capitale ou dans celles

des départemens environnans, seront réunis dans une prison que désignera notre ministre de l'intérieur.

2. Le directeur général de cette prison d'essai sera nommé par nous : il sera chargé de la surveillance et de la direction générale de la police, travaux, instruction et administration de la prison. Il présentera à la nomination de notre ministre de l'intérieur un adjoint, s'il croit devoir en choisir un, et six inspecteurs chargés avec lui, et sous sa direction, de la surveillance et administration de cette prison.

3. Ces différentes places, dont l'humanité et la libéralité des sentimens peuvent seules faire consentir à accepter les fonctions, seront gratuites.

4. Le directeur général nommera le gardien de la prison et les employés subalternes chargés de la garde des prisonniers : il pourra les révoquer à volonté.

5. Il soumettra à l'approbation de notre ministre de l'intérieur les réglemens à établir dans la prison.

6. Indépendamment du compte qui nous sera rendu tous les mois de l'état de cette prison, sous tous les rapports, par notre ministre de l'intérieur, une commission composée d'un conseiller d'état et de deux maîtres des requêtes, et une composée de trois membres de notre cour de cassation, visiteront, chacune deux fois l'année, cette prison dans tous ses détails, et nous feront connaître le résultat de leurs observations, qu'elles mettront par écrit sur le registre de la prison. Le directeur général et les inspecteurs seront prévenus des visites de ces commissaires, pour pouvoir leur donner tous les renseignemens généraux et particuliers qu'ils pourront désirer.

7. Le directeur général rendra, à la fin de chaque année, à notre ministre de l'intérieur, un compte moral et détaillé de l'état de la prison, et un compte des recettes et dépenses ; ce compte, vérifié et approuvé par notre ministre de l'intérieur, sera mis sous nos yeux et rendu public.

8. Nous nous réservons, de l'avis de notre chancelier, d'accorder des grâces avant l'expiration du temps de détention ordonné par les jugemens, à ceux des prisonniers dont l'exactitude de la conduite pourrait faire croire à leur

amendement, et qui seraient jugés pouvoir être rendus à la société sans inconvénient pour elle et à son avantage.

9. M. le duc de la Rochefoucauld, pair de France, est nommé directeur général de la prison d'essai.

10. M. le baron de Lessert, l'un des administrateurs généraux de notre bonne ville de Paris, est nommé adjoint de M. le directeur général.

11. A raison de la présente ordonnance, celle du 18 août dernier, relative à l'établissement d'une maison de correction pour les jeunes condamnés du département de la Seine, se trouve annulée.

12. Notre ministre de l'intérieur est chargé de l'exécution de la présente ordonnance.

Donné en notre château des Tuileries, le 9 Septembre, l'an de grâce 1814.

(Signé) LOUIS.

Par le Roi :

Le Ministre Secrétaire d'état de l'intérieur,

(Signé) L'ABBE DE MONTESQUIOU.

No. VIII.

Report of the Committee of the General Penitentiary at Milbank for the Reception of Convicts; made in pursuance of the 56 Geo. III. cap. 63, sec. 39; specifying the State of the Buildings, the Behaviour and Conduct of the respective Officers, the Treatment and Condition of the Convicts, the Amount of their Earnings, and the Expenses of such Penitentiary.

THERE are at present in the Penitentiary, 108 male, and 118 female convicts.

The portion of the prison now completed, was originally

intended to contain 200 prisoners, and was represented in the former Report of the Committee, to be calculated to accommodate that number. In consequence, however, of an alteration which was made last spring in the manner of lodging the prisoners, the present buildings will be found capable of receiving nearly 300, instead of 200. In the first distribution of the prisoners, they were all placed in different cells by night, from those which they occupied by day ; so that two cells were allotted to each of the prisoners of the first class (who are by the 56 Geo. III. to be kept separate from each other during the hours of labour, as well as by night) but owing to the facility afforded to ventilation by the construction of this prison, it has been found practicable, without inconvenience, to make one cell serve both as a night cell, and a day cell for every prisoner of this description.

The Committee reported at the commencement of the last session of Parliament, that it would be necessary to adopt measures for giving additional stability to some parts of the present buildings ; accordingly means have been used for that purpose, and two towers have been taken down to be rebuilt on a better foundation. The Committee are informed that it may be necessary to take down two more towers, but they understand from their architect (Mr. Smirke), that there is not any cause for apprehension in regard to the other parts of the buildings.

The officers behave with mildness to the prisoners, in conformity to the directions given by the Committee ; and no instance has occurred of any complaint made by a prisoner of harshness or ill usage. The conduct and demeanour of the female prisoners is highly decorous ; the male prisoners, many of whom are boys recently received from Newgate, and for the present without employment, are less orderly, but even in these much improvement has taken place since their arrival. The opinion of the chaplain, on the general state of the Penitentiary, will best appear from the following extract, taken from the conclusion of his journal for 1817 ; at which time the prison had not been open to male offenders for one complete year ; viz.—

“ In the course of the year, one of the female convicts has

been baptized, and 17 males and 46 females have been confirmed by the Right Reverend the Lord Bishop of London, at a confirmation held by his lordship in the chapel. Sixty-three females and ten males have received the holy sacrament; but of this number of communicants, the chaplain thought it necessary that three should not give their attendance at the administration of that solemn ordinance on Christmas-day, and on Sunday last; and he has always considered it as a duty to explain very fully to them, that their attendance at the Lord's Table will not be marked by any favour, but that it will rather cause their conduct to be more strictly scrutinized and watched.

“ The convicts who were first sent to the Penitentiary, have most of them conducted themselves in an exemplary manner; and indeed the general behaviour of all has far exceeded the expectations of the chaplain, when he reflects that many of them came here without education, and from the haunts of vice. From what he has already observed, he trusts that the system of moral and religious instruction adopted in the Penitentiary, will be the means of reclaiming many from the paths of vice, by breaking their connexions with profligate and abandoned companions, and of restoring them to the society of their friends, and making them honest and industrious members of the community.”

Sufficient time has not yet elapsed since the Penitentiary has been in operation, for the Committee to report any of the convicts to the principal Secretary of State for the Home Department, under the 25th section of the 56th Geo. III. as proper objects for their merit in the prison, to be recommended to the royal mercy; several have received His Majesty's pardon, founded on circumstances unconnected with their behaviour, since they came under the care of the Committee; but in every such instance it has been ascertained, by previous inquiry from the Committee, that the conduct of the convict in the Penitentiary, though not the ground of his pardon, has nevertheless been such, as in no degree to diminish his claim to the mercy of the Crown.

The general health of the prisoners appears to have been good since the last Report, especially when it is considered how prevalent fevers have been in London, and in many parts of the country. Four female prisoners have died since the prison was opened for females in June, 1816; and one death has occurred among the males since the first reception of male convicts, in February, 1817. Of the four deaths among the females, three were occasioned by disorders, which were contracted previously to their admission into the Penitentiary; viz. two by consumption and one by dropsy.

The female prisoners have full employment, chiefly in needle-work. Their earnings during the last year will be stated separately from those of the males, at the end of this Report; but of the male prisoners many are yet unemployed, and the whole earnings in that part of the prison are not very considerable.

It is obvious, that some time must elapse, before it can properly be ascertained what trades can be carried on with advantage within the prison; and even the trades in which the arrangements of manufacture can be most easily reconciled with the discipline of a Penitentiary, cannot be expected to be immediately productive, as almost all the hands employed are to be taught ~~their trade~~, before they can make articles fit for sale.

Some of the prisoners are employed as tailors; and the commissariat department, with a view of giving them work in this line, has sent in a quantity of cloth to be made into great coats.

The Committee have reason also to believe, that there will be no difficulty in finding employment for many of the male prisoners in shoe-making, as soon as they shall be sufficiently instructed to be able to make articles that are saleable; under this impression, a person has been lately hired, in addition to the ordinary turnkeys of the prison, for the purpose of teaching this business.

There are besides several male prisoners who work at different trades, some of which may be found advantageous, and may be taught by them to other prisoners, such as carpet-making, turning, fringe-making, the manufacture of glass

beads, &c. &c.; and although the collective earnings of the male prisoners during the first year after the opening of the prison, have not been considerable, owing to the causes which have been stated; there are some among the tailors whose work is now worth from five to six shillings a week, at the moderate prices fixed on their labour in the prison; and others who can earn from ten to fourteen shillings weekly, as shoemakers, who had never worked at those trades before they came into the Penitentiary, and in regard to whom, it may be doubted whether they had been long employed in any honest way previously to their imprisonment.

The Committee see no reason to doubt, that when the system of manufacture within the Penitentiary shall be fairly brought into operation, most of the male prisoners will earn a sufficient sum to defray the cost of their food and clothing.

The present charges of superintendence are of course very high, owing to the necessity of having a complete establishment of superior officers, while the prisoners under their care bear only a small proportion to the number which the prison will contain when it is finished.

No complete new building has been added to the Penitentiary in the course of the last year, but the foundation, and a part of the brick-work for the portion of the prison which is eventually to be occupied by females, are executed; and the Committee understand from the supervisors, that it is intended to raise and cover in the whole of that building (calculated to contain 400 female prisoners) before next winter.

In this case, the Committee will probably be able in the course of the spring of 1819, to remove the female prisoners from the portion of the prison which they now occupy, and to complete their number to 400, taking in at the same time 150 more male prisoners.

The Committee cannot conclude this Report, without earnestly recommending that this plan should be proceeded in without delay, as their expectation of advantage to the public, as well in regard to the produce of the work of the prisoners confined in the Penitentiary, as in respect to the moral effects of such confinement on their habits and behaviour, has been increased by the experience of the last year.

APPENDIX.

115

Earnings of the Female Prisoners, from the 1st January to the 31st December, 1817.

| | £. | s. | d. | £. | s. | d. |
|---|-----|----|-----|-----|----|----|
| To the amount of work received from sundry persons | 346 | 1 | 7½ | | | |
| To the amount of prisoners' earnings for work done for the use of the establishment | 46 | 3 | 10½ | | | |
| To the amount of earnings by pri- soners acting as wardsmen, and in the wash-house, laundry, &c. cal- culated at 6d. per diem each . . | 127 | 12 | 0 | | | |
| | | | | 519 | 17 | 6 |

*Earnings of the Male Prisoners, from their recep-
tion, which commenced in February, 1817, to
31st December, 1817.*

| | £. | s. | d. | | | |
|--|-------|----|----|-----|---|---|
| To the amount of earnings for work sent out of the prison | 311 | 11 | 5 | | | |
| To the amount of earnings for work done for the establishment . . . | 74 | 14 | 1 | | | |
| To earnings by prisoners acting as wardsmen, bakers, cooks, &c. . . | 70 | 0 | 6 | | | |
| | | | | 456 | 6 | 0 |
| Total amount of earnings | £ 976 | 3 | 9 | | | |

EXPENSE.

| | £. | s. | d. |
|--|---------|----|----|
| To the amount of all expenses incurred be- tween the 1st January and 31st December, 1817 | 11,327 | 14 | 8 |
| Of the above sum there has been expended, in fittings up and alterations of the prison for the temporary occupation of the female prisoners, the sum of | 2,022 | 4 | 0 |
| Expenses of the establishment | £ 9,305 | 10 | 8 |

Dated this 2d March,
1818.

CHARLES EDMONSTONE.
GEORGE HOLFORD.
CHARLES SHAW LEFEVRE.
W. MELLISH.
DAVIES GILBERT.

No. IX.

Two Reports of John Henry Capper, Esq. Superintendent of Ships and Vessels employed for the Confinement of Offenders under Sentence of Transportation.— Ordered, by the House of Commons, to be printed, 11th February, 1818.

No. I.

Report of John Henry Capper, Esq. Superintendent of Ships and Vessels employed for the Confinement of Offenders under Sentence of Transportation; dated 1st August, 1817.

Great Queen-street, 1st August, 1817.

MY LORD,

I HAVE the honour of making a further report to your lordship, upon the state of the convict establishment at Woolwich, Sheerness, and Portsmouth.

Notwithstanding the number of prisoners which have of late been received on board the convict ships, has exceeded all former times, (consisting of rather more than one thousand) they have been both orderly in their conduct on board, and when on shore at labour.

The respective chaplains have very correctly reported upon the moral conduct of the prisoners; copies of which Reports I have the honour to enclose herewith. The schools established in all the ships have proved of infinite benefit to the prisoners.

The general state of health among the convicts has been very good, considering the great number which have of late been removed to the hulks; and I am perfectly satisfied, by the reports which I have received from the surgeons of the different hulks, that most of the deaths which have taken place, (twenty within the last six months) have been occasioned by disease fixed in the constitution of those persons, long previous to their coming to the hulks.

The respective officers have been attentive to their duty,

and I am persuaded that they have upon all occasions treated the prisoners with great humanity.

The public works carrying on at the different places where the convict ships are stationed, have furnished daily employment for nearly the whole of the prisoners competent to labour; but many of them, as I have often reported to your lordship, are brought to the hulks totally unfit for either labour or transportation, and from age and infirmity are even unable to execute the ordinary duties of the ship, so that they remain a complete burthen upon the convict establishment. Arrangements have been made, as far as practicable, for drafting many of the prisoners of this description into the vessel at Gosport, where the public labour is least required.

By the accompanying account, showing the expense of the establishment, together with the earnings of the prisoners, from the 31st day of December, 1816, to the 1st day of July, 1817, it will appear that the sum expended within that time, has been 41,830*l.* 12*s.* 1½*d.* from which should be deducted the earnings of labour, 17,218*l.* 19*s.* leaving the actual expense of 24,611*l.* 13*s.* 1½*d.* for the care and maintenance of 2,159 prisoners, being the average number daily on board. The expense attending the establishment has exceeded the former like periods by about 4,000*l.*, which excess has been occasioned by clothing the numerous prisoners, both received on board the hulks, and those sent to New South Wales, and in discharging accounts with the Navy Board, for fitting and putting the convict vessels in a proper state of repair.

The provisions furnished by the contractors, have been supplied by them in a manner that has not often admitted of ground for complaint.

I have the honour to be,

My Lord,

Your lordship's most obedient faithful servant,

JOHN HENRY CAPPER.

The Viscount Sidmouth,

&c. &c. &c.

Copy of Report of the Chaplain to J. H. Capper, Esquire.

Royal Arsenal, Woolwich, 1st July, 1817.

SIR,

MY return to your inquiries this quarter, respecting the convicts at this place, will comprise little new matter, but may prove so much the more satisfactory, as I have only to report a continuance of that good government and orderly deportment in the ship, which have now been so long uninterrupted, as to warrant the conclusion, that under the blessing of God the endeavours of all concerned in the improvement of the principles and habits of the prisoners have not been ineffectual.

The periodical extension of royal clemency to a few, distinguished for regular, obedient, and industrious behaviour, has not failed to stimulate even the sullen and the careless; while the occasional, and sometimes unexpected liberation of some, before they could be recommended from hence, according to the regulation, tends to keep hope alive, and to sustain the mind in general against despondency.—Pardon, now and then granted to delinquents under a life sentence, may, in my humble opinion, have a very beneficial effect on others who remain behind; for as we must never shut the door of divine mercy, we gain much by being enabled to exemplify its operation by reference to the forgiveness of our prince on earth for offences subject to the highest human penalty.

The school has, I am certain, afforded to many such facilities for bettering their condition on their return into society, as they never before knew how to obtain or to appreciate.

The health of the people has been most graciously preserved, and does not appear to be impaired even by the late extraordinary heat, none being seriously ill but the aged and the radically diseased patients. No casualty, has, I think, occurred since my last Report.

I have the honour to be, Sir,

Your faithful humble servant,

(Signed) S. WATSON, D. D. Chaplain.

To John Henry Capper, Esq.

Copy of Report of the Chaplain of the Retribution Hulk at Sheerness, to J. H. Capper, Esquire.

Sheerness, 19th July, 1817.

SIR,

THE Retribution hulk continues in a state of the greatest order imaginable. The general deportment of the prisoners has been such, as is becoming men in their suffering condition; and it is no more than justice, that I bestow upon them the meed of praise.

I am, Sir,

Your obedient and faithful servant,

(Signed) T. PRICE, Chaplain.

To John Henry Capper, Esq.

Copy of Report of the Chaplain of the Bellerophon Hulk, to J. H. Capper, Esquire.

Bellerophon, 1st July, 1817.

SIR,

If facts are to be stated, the Report I am about to make must necessarily be couched in strong terms of commendation. Above four-fifths of the convicts on board the Bellerophon conduct themselves in a very becoming, yea, I may say, very many of them in an exemplary manner; amongst these are doubtless hypocrites; but having made this concession, I feel exquisite satisfaction in stating my conviction to be, that many of them are sincere and reclaimed. Some of the long-sentenced men are very orderly, and furnish proofs sufficiently strong to satisfy charity that they are not lost to all good feelings and principles. The conduct of such is the more remarkable, as they cannot be suspected of that disguise which seven-years-men may put on, with a view of being recommended.

Our school is well attended; two hundred and thirty is the present number of scholars. No institution was ever formed more likely to be useful in reclaiming the misguided, than a school conducted on the principles with which it is carried on in this ship: I hope government will ever countenance it. Let the return of seven-years-men to society be contemplated;

and it will instantly occur to the mind, that the expense incurred by such support from government will be a solid advantage, and not a loss to the country. By this institution, men brought here comparatively virtuous, are not only preserved from being vitiated, but improved in principles and conduct. All the boys attend, and generally improve beyond any expectation. I cannot easily express the satisfaction I feel with regard to them generally. The captain has had of late no cause to reprove any of them: this gives not only to him and me very great satisfaction, but also to others.

Upwards of sixty (men and boys) repeat once a month the church catechism; about twenty repeat memoriter the thirty-nine articles once a month; one of the boys is going to commit some of the homilies to memory. What excites my astonishment, gratitude, and praise to God, is the pleasing emulation which has lately prevailed amongst the prisoners, especially amongst the boys, to commit the sacred Scriptures to memory. Before the evening prayer commences, there is always one or more ready to repeat a chapter memoriter. The proper lessons, epistle, and gospel, are thus repeated every Sunday. When men are thus occupied, it is evident that they have not much time to vitiate each other.

A beneficed clergyman of this neighbourhood officiated last Sunday in my stead; after he had done, and retired, he observed, "Well, I am astonished! I do not think that there is in all England a congregation who conduct themselves during divine worship so orderly, and apparently so devout as yours do."

I have to acknowledge the steady, active, and zealous support I still receive from Captain Owen and the chief mate, in promoting religion and virtue among them, who are the immediate objects of my spiritual care. Mr. Kellick observes, that the conduct of the men on shore, with the exception of about thirty, is very good. The average attendance at evening prayer exceeds three hundred.

I have the honour to subscribe myself, Sir,

Your most obedient servant,

(Signed) EDWARD EDWARDS.

To John Henry Capper, Esq.

Copy of Report of the Chaplain of the Captivity and Laurel Hulks at Portsmouth, to J. H. Capper, Esq.

Report of the state of Morals and Religion among the Convicts on board the Hulks, " Captivity" and " Laurel," for the half year ending the 30th June, 1817.

THE present state of the convicts is so satisfactory as to call for few observations. They are, with remarkably few exceptions, respectful to their chaplain, and obedient to their officers, orderly in their wards, diligent in the school, attending to the reading of evening prayers with the most praiseworthy decorum, and joining in the public chapel service with the utmost solemnity. And as far as external behaviour and earnest professions on their part can be relied on, a considerable number may be declared to have been brought to see the error of their ways, and to be desirous of following the rules of virtue and religion during their future lives.

(Signed) WILLIAM TATE, Chaplain.

To John Henry Capper, Esq.

AN ACCOUNT, shewing the EXPENSE of the HULK ESTABLISHMENT, from the 1st January to 1st July, 1817; as also the Earnings of the Convicts at each place of Confinement; the average Number of Convicts confined at each Place, and the Number of Days Labour performed by such Convicts;—distinguishing the WORK of ARTIFICERS from that of COMMON LABOURERS.

| NAME OF SHIP. | STATION. | EXPENSE. | Average number of Convicts daily on board. | Number of Days Labour performed. | Number of Artificers employed. | Number of Labourers employed. | Rate per Day | Amount of Artificers and Labourers Earnings separate. | Total Amount of the Earnings of each Ship. |
|---|--|--------------|--|----------------------------------|--------------------------------|-------------------------------|--------------|---|--|
| | | £. s. d. | | | | | s. d. | £. s. d. | £. s. d. |
| Captivity..... | Portsmouth | 8,328 7 11½ | 530 | 148 | 1,975 | 57,315 | 2 3 1 6 | 222 3 9 4,298 12 6 | 4,520 16 3- |
| Leviathan *.... | Portsmouth Na- vy Board Ac- count..... | 1,935 13 6 | | | | | | | |
| Laurel | Gosport | 4,530 2 2 | 275 | 145 | 2,586 | 17,496 | 2 3 1 6 | 290 18 6 1,312 4 0 | 3,603 2 6 |
| Bellerophon ... | Sheerness | 7,700 2 5½ | 435 | 145 | 1,790 | 43,588 | 2 3 1 6 | 301 7 6 3,365 7 0 | 3,466 14 6 |
| Retribution.... | Sheerness..... | 8,275 19 2 | 469 | 150 | 3,495 | 45,729 | 2 3 1 6 | 393 3 9 3,499 13 6 | 3,822 17 3 |
| Justitia | Woolwich | 10,329 14 7½ | 477 | 153 | 4,772 | 48,581 | 2 3 1 6 | 556 17 0 3,268 11 6 | 3,805 8 6 |
| Superintendent's Salary for half a year..... | | 200 0 0 | | | | | | | |
| Contingencies attending the whole Establishment, including Books sent with Prisoners embarked for New South Wales | | 530 12 3 | | | | | | | |
| | | £ | | | | | | | £ |
| | | 41,850 12 1½ | | | | | | | 17,218 19 0 |

* Fitting as a convict hulk in lieu of the Captivity.

John Henry Capper, Superintendent.

No. 2.

Report of John Henry Capper, Esq. superintendent of the several Ships and Vessels employed for the Confinement of Offenders under Sentence of Transportation.

London, 10th January, 1818.

MY LORD,

I HAVE the honour of making the following report to your lordship, respecting the prisoners confined in the several convict ships at Portsmouth, Sheerness, and Woolwich.

The conduct of the officers and guards throughout the establishment, has been uniformly correct, and their treatment of the prisoners humane and proper in every respect.

The convicts have been quiet, orderly, and industrious; and the officers belonging to the public departments, under whose immediate directions the prisoners have been employed, speak very favourably of their conduct when at labour.

Considerable praise is due to the chaplains belonging to the establishment, for their unremitting attention to the religious instruction of the prisoners. Their respective reports I have the honour to enclose for your lordship's information; and as they have so fully detailed the general deportment of the prisoners, I need only express my concurrence in their sentiments; but I cannot withhold reporting to your lordship, that the chaplains have upon all occasions shown the greatest zeal for carrying into effect every measure which I have proposed, tending to the improvement of the minds of the unfortunate persons placed under their spiritual care.

I have frequently noticed in my reports to your lordship, the great increase of offenders brought to the Hulks, of very tender years; and I now feel it my duty to state to your lordship the numbers which have been received on board the different ships during the last eighteen months, and to explain the manner in which they have been disposed of:—within the above-stated period one hundred and twenty-nine have been received on board the different Hulks, of the age of sixteen years and under: of which number, seventy have

been transported to New South Wales, leaving fifty-nine in the different convict ships on the first of this month.

The character reported of the former course of life of most of these boys is truly lamentable; but I have received the most satisfactory accounts of the behaviour of those now remaining in confinement in the different Hulks. The chaplains have devoted much time to their education; every possible pains (as far as present circumstances will admit in the Hulks) have also been taken for employing them in useful occupations; and their intercourse with adult prisoners has in a great measure been prevented on board those ships where the greater part are confined, by placing them in divisions, formed principally in view to that object. I take this opportunity of acquainting your lordship, that arrangements have also been made for keeping such youthful offenders as may be sent to New South Wales, separate from other criminals during the voyage.

The surgeons belonging to the different Hulks have been very attentive to the sick; and notwithstanding the small-pox made its appearance in two of the ships during the last year, I am happy to say that only four died of that disorder. The deaths throughout the ships, within the last year, have been but few, compared with the numbers on board.

Although your lordship has from time to time been fully informed of the increased number of prisoners of late received into the Hulks, and transported to New South Wales, I have the honour of making the following statement of their numbers within the last year; viz. on the first day of January, 1817, there were on board the different Hulks two thousand and forty-one prisoners; since which time to the first instant, two thousand three hundred and sixty-four have been received on board from the several gaols in England, Wales, and Scotland; one thousand seven hundred and ninety have actually been transported to New South Wales (being an excess of the preceding year of seven hundred and eighty-two prisoners;) forty-five have died, one escaped, and four hundred and thirty-seven have been either discharged, pardoned, or removed to other places of confinement; leaving on board the respective convict ships, on the

first, of January, 1818, two thousand one hundred and thirty-two prisoners.

I have also the honour to enclose an account of the expense of each place of confinement, between the first of July, 1817, and the first of January, 1818; together with an account of the earnings of the prisoners within that period; also the average number of prisoners daily on board the respective ships, and the number of days labour performed by such prisoners, distinguishing artificers from common labourers.

I have the honour to be,

My lord,

Your lordship's most obedient faithful servant,

JOHN HENRY CAPPER.

The Viscount Sidmouth,
&c. &c. &c.

Report of the State of Morals and Religion among the Convicts confined on board the Hulks "Leviathan" and "Laurel," 31st December, 1817.

As the certainty of detection has a much greater effect than the severity of punishment, in repressing crimes, it is not surprising that since the Hulks have been so fitted up as to give the officers complete facility of inspecting the prisoners in their wards, at all hours of the day and night, not only has coining, but gambling also, been in a manner quite annihilated; and even swearing and fighting are now but of rare occurrence, and then only among the very worst characters. Every benefit that could have been anticipated, has arisen from classing the convicts according to their previous character and subsequent conduct, and especially from the quarterly investigation of each individual's conduct. How much may be effected by these admirable regulations, co-operating with the great rewards that are held out for uniformly continued good conduct, is fully exemplified by the very orderly demeanor of the convicts on board the Hulks

Leviathan and Laurel. As a body they are at all times quiet and peaceable: in their wards (when not at meals) they are commonly to be seen either reading their bible, or industriously employed in some useful work: when attending divine service in the chapel, the behaviour of all is commendably serious; that of many, solemn and devout, whilst they join in the responses in an audible and impressive manner. Prayers are also read every evening by the convicts themselves, during which time they show the utmost propriety and decency of manner. The choir on board the Leviathan is admirably well organized; and that of the Laurel in a very respectable state.

The teachers in the school deserve much commendation for their attention to the instruction of their fellow prisoners; and the scholars, by their assiduity and diligence, endeavour to show themselves grateful for the advantages thus afforded them. Many have learnt to write a good and legible hand, who were ignorant of their letters when first admitted. The boys are also regularly instructed in some mechanic art, so as to be qualified to earn a maintenance after their discharge; forty-three convicts received the sacrament of the Lord's Supper on Christmas-day last; and their reverent and devout behaviour, during that solemn service, fully agreed with the apparent sincerity of their professions. In fine, that some have had a deep religious impression made upon them, is confidently believed;—that many make apparently sincere professions of penitence, is certain;—that the manners and habits of the convicts in general are, in appearance at least, reformed, is beyond a doubt. Hence it may not unreasonably be inferred, that when these men are restored to liberty, they will (with comparatively few exceptions) be prepared to become useful members of society.

(Signed) WILLIAM TATE, Chaplain.

John Henry Capper, Esq.

*Copy of Report of the Chaplain of the Retribution Convict Ship,
to J. H. Capper, Esq.*

*Retribution, Convict Ship,
1st January, 1818.*

SIR,

I AM aware that an unfavourable opinion prevails with many persons respecting the real state of the Hulks; nor am I a stranger to the dreadful apprehensions that some prisoners entertain of being sent to them; but I find the very same persons have, upon their arrival here, expressed in unqualified terms their agreeable surprise, and that the present management of the ship afforded them such comfort and ease, as surpassed every thing they experienced in prison, and were glad of the change.

It is but recently that a prisoner of a superior class, in Newgate, made applications to Lord Sidmouth, not to be sent to the Hulks, but to be kept there till he could be removed on board the ship that was to convey him to New South Wales. His friends applied to me for information on the moral state of the Retribution, and upon my representation, he came down here, and afterwards expressed himself thus to a gentleman in London, who has since favoured me with a sight of his letter, that, "instead of the most shocking scenes of depravity and the most demoniacal uproar and confusion, as formerly pictured to us, and I believe without exaggeration, one is greeted with cleanliness, order, and propriety. I could not have believed it possible, that amongst five hundred men of such varied and bad characters, so much peace and quietness might be enjoyed, or so much security from plunder and pillage." Other instances I could cite of a similar nature if necessary, but shall content myself only with a quotation from a letter which I have seen in the public prints, and dated from the Retribution Hulk; after specifying the general arrangement of the ship, he says,—
"There is a school and chapel in the Hulk, which is regularly attended, and it is far from being a reprobate place, as we were led to believe at Derby; for if a person is inclined, every encouragement is allowed him to improve his morals."

It is but justice to say, that these great alterations have taken place since you have been appointed the inspector, by the readiness of your acquiescence to every suggestion that is calculated to ameliorate the condition, and improve the morals of the prisoner. Here is the greatest order and decorum ; and if such a person can be found, who is desirous of witnessing scenes of immorality and vice, he must not look for them in the Retribution. The accomplishment of this work has not been without much anxiety and labour ; but what will not care and labour effect ?

Besides the stated times on the sabbath and week days for religious duties, many of these poor outcasts embrace every opportunity of comforting themselves by assembling together in their wards, for reading the scriptures, and joining in prayer.

The schools are well attended ; two hundred and two have been under instruction for the last half year ; and many have learnt to read and write who before could do neither.

The boys are exceedingly tractable, and well-behaved, and have made considerable progress in learning ; yet I cannot but lament that they are not more generally initiated in different trades : should they obtain their liberty, with an education and the knowledge of a business, through the medium of their friends we may indulge a hope of their settling in life, and becoming useful members of society ; but to send them again into the world without the means of support, it must naturally be expected that they will only stand in the way of being picked up by adepts in wickedness, and become more expert than ever in the commission of every crime.

I have heard it mentioned, that it is in contemplation to erect Penitentiaries for juvenile depredators ; but I am of an opinion, from the most serious deliberation on the subject, that it would be far better, and certainly would bear no proportion of expense, if a frigate were fitted up for their reception, instead of their being scattered, as they now are, through the different hulks and jails : they would thus be brought to one place and under one mode of instruction, and led to emulate each other in order, industry, and morality :

I see this strikingly exemplified in the few boys we have here, under the directions I have laid down for their conduct and improvement.

In a ship of this kind, with proper overlookers, (and every thing would depend upon the choice of such persons,) many of these poor children might be reclaimed. Let one part of the ship be allotted for their habitation, and other parts appropriated for schools, and places of instruction in different branches of trade, such as tailors, shoe-makers, carpenters, cabinet-makers, stocking-weavers, comb-makers, book-binders, &c.—By being kept from all intercourse with adult prisoners, they would in a few years outgrow the recollection of their former haunts and companions; then, according to their general behaviour and improvement, let them be recommended to the royal mercy, previously taking care to seek out persons who will take them into their employ, as we now do every quarter with other prisoners; and as an inducement for their continuing in their situation with honesty, industry, and sobriety, let it be held out to them, that for a certain number of years of settled *servitude*, government will grant them a suitable reward. Sure I am, if such a plan were adopted, the most beneficial effects would arise to these youthful delinquents: their minds are now susceptible of tender impressions, and they may be, by early care, watchfulness, and attention, moulded into honest men.

Let it be remembered, they are at present but *children*, and so situated as to claim our sympathetic concern; by thus doing all we can for them, we are but following the direction of the wise man, who declares, if we “train up a child in the way he should go, when he is old he will not depart from it.”

Should the wisdom of government ever adopt such a plan, I shall feel it a pleasing duty to give it all my attention and support.

I am, Sir,

Your obedient and faithful Servant,

(Signed) T. PRICE, Chaplain,

John Henry Capper, Esq.

*Copy of Report of the Chaplain of the Bellerophon Hulk at
Sheerness, to J. H. Capper, Esq.*

Bellerophon, Sheerness, 1st January, 1818.

SIR,

IN the account I am about to transmit, I must, in justice to the men intrusted to my spiritual instruction, adopt a strong and (it may be) a Scripture language.

Their conduct, collectively speaking, is now very different from what it was when I was appointed to be their chaplain about four years and a half ago,—it is as different as light is from darkness. Then, I could not perform divine service without very painful feelings excited by their very irreverent and indecorous behaviour; now, their conduct, during divine service, is truly exemplary; it may be equalled, but not exceeded, in any congregation. Where the rubric directs, the kneeling posture is strictly observed; and that of standing during psalmody, which is now performed in an excelling and devotional manner. They join in the whole of the service with the most pleasing propriety; and, I believe, very many of them give all possible heed to the instruction delivered out of the pulpit, and embrace it, not as the word of man, but, as “it is in truth the word of God.” The Holy Scriptures are daily read by them in general; and five-and-twenty chapters of them are, on an average, recited memoriter in the chapel every week. Should it be asked,—what advantage is such a practice likely to produce? It may be answered, that (to say the least) it employs men’s minds, so that they have less time to corrupt and harden each other in sin, than they otherwise would have. It has, I trust, amounted to the actual benefit of reclaiming some. Out of the four hundred and eighteen prisoners, about three hundred and sixty willingly attend constantly the Evening Prayers in the chapel. In the wards very many ask a blessing upon, and return thanks to God for their food. This Christian practice is daily increasing.

Their conduct on shore, and at their work, (as far as I can

learn) proves that their religion is not a mere outward appearance; but that many of them benefit by their religious instructions, and are, I hope, reclaimed. I am fully aware that there are hypocrites, and those amongst them, who, if they were restored to liberty, would still be thieves; but, Sir, those congregations are scarce, among which no hypocrites, &c. can be found. Having made this concession, I still think that there are scores who will for ever abstain from all evil practices, and that from principle of conscience towards God. I preach to them the bible, according to the doctrines of our church, as far as I am able to ascertain those doctrines from her *standard writings*, and God appears to bless them. Once a month, about a hundred and thirty of the prisoners say the church catechism; once a month, about five-and-twenty of them repeat *memoriter* the thirty-nine articles of religion; once a week, we generally have a homily (and sometimes two or three) repeated *memoriter*. Should it be asked,—What benefit is likely to result from this practice? my reply is, In case any of them are again restored to society, they will not be so easily led astray by every wind of doctrine. Hugh Farrol (who, according to report, was a most wild and depraved lad) thus repeated last evening the homily against the fears of death, with very considerable pathos and propriety. The conduct of this boy, is now exemplary good. Out of the four hundred and eighteen prisoners, two hundred and sixty attend regularly the evening School, which commences at six o'clock, and continues till seven. The school has been the most happy institution that was ever introduced amongst the convicts. Their minds are usefully occupied; in proportion as they acquire scriptural knowledge, the more easy do I find it to preach to their understanding and feelings, and make them sensible of their duties to God and man. At seven o'clock the chapel doors are opened for the admission of others to attend prayers, who, with those that attend school, generally amount to three hundred and sixty. The instances of pilfering, which have occurred during the year just closed, have been very few. I might recount many instances of genuine honesty, if it rendered not my Report too prolix.

Another practical proof of growing christian principles amongst them, I must not omit to mention ; a fund is raised by those who can afford to give a little, to assist them who may be pennyless when they are somewhat indisposed, but not so ill as to be placed upon the sick list. This fund is also intended to encourage virtue. On the whole, our men in general are at this time examples worthy to be imitated by many in a dissimilar situation.

Truth demands from me to say, that I still do receive continued and active co-operation in promoting the best welfare of the men, from the commanding officer, chief mate, &c. ; yea, also from very many of the convicts themselves.

I am, Sir,

Your very humble and faithful Servant,

(Signed) EDWARD EDWARDS, Chaplain.

John Henry Capper, Esq.

Copy of Report of the Chaplain to the Convict Ships at Woolwich, to J. H. Capper, Esq.

Royal Arsenal, Woolwich, 31st December, 1817.

SIR,

THE experience of the past year enables me to indulge very agreeable reflections on the present state of the *Justitia Hulk*, and the general deportment of the prisoners confined therein ; respecting which I have the honour to report as follows :

The partition of the ship into divisions, as numerous as a due regard to cleanliness and ventilation would allow, has, by means of classification, afforded facilities for observing the conduct of individuals, which were unattainable while the men were congregated in too large masses ; and the hope of promotion from a less eligible to a more comfortable quarter of the vessel has a most powerful influence on the minds of many.

The disposition to receive instruction in reading, writing, and arithmetic, increases very pleasingly, and will, I doubt

not, become pretty general, now that permission is given for such as are worthy of the indulgence to assemble in the chapel during a portion of the evenings to teach one another.

You have frequently witnessed the general attention of the whole, and the apparent seriousness of many, during the performance of divine service; and I can assure you, that as to these points, there is no observable difference in your absence. The number of communicants is usually from twenty-five to thirty.

In the hospital, I see nothing but studious attention to the comfort of the sick and infirm. The number of deaths this year has been augmented by the sudden incursion of a virulent small-pox, a disease from which the ships at Woolwich had been providentially preserved for twenty years at least.

These topics lead directly to the conclusion, which however I cannot forego the pleasure of expressing, that to the prudent management of the commander, and the assiduity of his officers, with their united zeal for effectuating all your arrangements, the public are indebted for the example of a large body of habitual offenders in such a state of order and good government as could hardly be expected.

I have the honour to be, Sir,

Your faithful humble Servant,

(Signed) SAMUEL WATSON,

Chaplain to the Convict Ships at Woolwich.

John Henry Capper, Esq.

| AN ACCOUNT shewing the EXPENSE of the HULK ESTABLISHMENT, from the 1st July to 31st December, 1817; as also the Earnings of the Convicts at each Place of Confinement; the Average Number of Convicts confined at each Place, and the Number of Days Labour performed by such Convicts,—distinguishing the WORK of ARTIFICERS from that of COMMON LABOURERS. | | | | | | | | | |
|--|--------------|------------------------|--|----------------------------------|--------------------------------|-------------------------------|---------------------|---|--|
| NAME OF SHIP. | STATION. | EXPENSE. | Average Number of Convicts daily on Board. | Number of Days Labour performed. | Number of Artificers employed. | Number of Labourers employed. | Rate per Day. | Amount of Artificers and Labourers Earnings separate. | Total Amount of the Earnings of each Ship. |
| *Captivity..... | Portsmouth. | £. s. d. 5,968 2 11 | 502 | 116 — | 1,456 — | 45,871 — | s. d. 2 3 1 6 | £. s. d. 163 16 0 3,440 6 6 | £. s. d. 3,604 2 6 |
| Leviathan..... | | 5,150 19 7 | — | 33 — | 370 — | 12,055 — | 2 3 1 6 | 41 12 6 904 2 6 | 945 15 0 |
| Laurel | Gosport.... | 4,983 15 10½ | 327 — | 151 — | 2,376 — | 20,496 — | 2 3 1 6 | 267 6 0 1,537 4 0 | 1,804 10 0 |
| Retribution..... | Sheerness... | 9,010 8 10½ | 521 — | 150 — | 4,577 — | 54,042 — | 2 3 1 6 | 514 18 3 4,053 3 0 | 4,568 1 3 |
| Bellerophon ... | Sheerness... | 8,435 3 5½ | 483 — | 146 — | 1,377 — | 49,086 — | 2 3 1 6 | 154 18 3 3,681 9 0 | 3,836 7 3 |
| Justitia | Woolwich.. | 8,338 17 8½ | 496 — | 155 — | 4,750 — | 45,930 — | 2 3 1 6 | 534 7 6 3,444 15 0 | 3,979 2 6 |
| Superintendent's Salary for half a year | | 200 0 0 | — | — | — | — | — | — | — |
| Contingencies attending the whole Establishment..... | | 683 12 8 | | | | | | | |
| | | 42,770 1 0½ | | | | | | | |
| | | | | | | | | | 18,737 18 6 |

* Establishment of this Ship transferred to the Leviathan in November, 1817.

John Henry Capper, Superintendent.

No. X.

A STATEMENT of the Average number of Prisoners in the House of Correction at Preston, from Easter 1817, to Easter 1818, (50 Weeks,) together with the Amount of their Earnings, Disbursements, and Sums paid to the Task-master, and to the Treasurer for the above-mentioned period.—Humbly presented to the Magistrates for the County Palatine of Lancaster, especially to those assembled at the Annual Session held in the Court House at Preston, on Thursday, 25th June, 1818.—By William Liddell, Governor.

| Date of Quarter Session. | Amount of Earnings in each Quarter. | Sundry Disbursements including one fourth of each Prisoner's Earnings Paid to them. | | Allowance to Task-master, at 10 per cent. | | Amount paid to the Treasurer. | |
|--------------------------|-------------------------------------|---|-------|---|-------|-------------------------------|-------|
| | | £. | s. d. | £. | s. d. | £. | s. d. |
| 1817. | | | | | | | |
| July 17th. | 320 6 0 | 89 | 10 9½ | 32 | 0 7 | 198 | 14 7½ |
| October 16th. | 393 17 0 | 88 | 15 10 | 39 | 7 8 | 265 | 13 6 |
| 1818. | | | | | | | |
| January 15th. | 294 19 0 | 55 | 14 5 | 27 | 15 1 | 211 | 9 6 |
| April 2nd. | 277 10 0 | 45 | 15 4 | 27 | 15 0 | 203 | 19 8 |
| | 1286 12 0 | 279 | 16 4½ | 126 | 18 4 | 879 | 17 3½ |

Average number of Prisoners in each Quarter, viz.

| | |
|---|-----|
| 1817. For the Quarter ending in July..... | 411 |
| Do..... Do. .. October..... | 308 |
| 1818. Do..... Do. .. January..... | 212 |
| Do..... Do. .. April..... | 234 |

4)1165

The Average number for the Year is..... 291¼ Prisoners.

Description and Expense of a Week's Diet for each Prisoner in Preston House of Correction for the Quarter ending in July, 1818.

| | s. | d. |
|---|-------|-------|
| 1 Pound of beef | 0 | 4 |
| 2 Do. of Potatoes, at 7s. 6d. per load 240 lb. | 0 | 1½ |
| ¾ of a pound of Stew, at 2d. per pound | 0 | 1½ |
| 2 Pound of Oat Meal, at 50s. per load 240 lb. | 0 | 5 |
| ¼ of a pound of Cheese, at 6d. per pound | 0 | 1½ |
| Salt | 0 | 0½ |
| 7 Loaves of bread each loaf weighs 20 oz. and costs } 2d. ½fs. per loaf. | 1 | 7½ |
| | <hr/> | <hr/> |
| | 2 | 9½ |

P. S. The Average price annually for keeping a prisoner is nearly 2s. 5d. per week.

N. B. Upwards of thirty persons (prisoners) daily employed about the new buildings, exclusive of cooks, constables, loomers, bobbin winders, nurses, &c. for the space of 12 months, and for all the persons so employed *no earnings* is calculated upon for any of them, although *each labourer* did save 18s. per week to the county, during the time they were so employed.

Prisoners received from other Gaols.

1818.

| | | |
|----------------------------------|----|------|
| January Sessions from Lancaster. | 12 | } 27 |
| April Do. . . . Do. . . . | 15 | |

1818.

| | | |
|--|----|------|
| January Sessions from Liverpool. | 13 | } 30 |
| April Do. . . . Do. . . . | 17 | |

| | | |
|---------------------------|-------|----|
| Received in all | <hr/> | 57 |
|---------------------------|-------|----|

Increase upon the Preston Establishment.

| | £. | s. | d. |
|---|-----|----|-----|
| To Diet for 57 Persons at 2s. 9½d. per week, } each, per annexed Statement | 7 | 17 | 11½ |
| Rate per quarter. | 102 | 13 | 2½ |
| Do. per annum. | 410 | 12 | 9 |

The above statement does not include any charge for clothing, medicine, or any other nourishments, it is merely for Prison food.

No. XI.

*REPORT of the Committee appointed for the Relief
and Discharge of Debtors confined in the Borough
Gaol of Liverpool on the Fiftieth Anniversary of his
Majesty's Accession to the Throne of these Realms.*

29th January, 1810.

ON the morning of the anniversary seventy-two persons were in confinement in the Borough gaol under seventy-nine detainers for debt.

Early in the day forty were discharged, one of whom (an officer of excise for a penalty of 100*l.* due to the Crown), his Majesty was most graciously pleased to liberate. The others were selected with reference to the then state of the subscription fund.

In the course of that day the fund was more than adequate to the relief of all who remained, and they have been accordingly discharged.

The duty of the Committee would have ended here; but in the examination of the cases it appeared to the committee (and subsequent inquiries confirmed the belief), that a system of fraud and contrivance had prevailed in the arrest of seamen, and particularly of Foreign seamen at Liverpool, which imperiously demanded investigation and redress.

The plaintiffs in these arrests, were generally the keepers of boarding and lodging houses for seamen. They possessed themselves of the wages of the men, which had been earned on the voyages to Liverpool; so long as the money lasted, the men were entertained; when it was exhausted they were arrested on charges most extravagantly swelled up, and most exorbitantly imposed, and the prison of the boarding-house, was exchanged for the confinement of the Borough gaol. By this means two objects were attained, inquiry into the expenditure of the money received by the landlords was prevented, and the men were always to be found when ships

had been provided. They had no means of procuring investigation ; they were compelled to go on board, or to remain in the prison. The choice between confinement and liberty was soon made ; and the landlords, in addition to the former plunder, received the advanced notes for the seamen's wages, on the voyages from Liverpool, without account.

To endeavour to ascertain the extent of this practice, the committee divided the cases of the debtors into three classes.

The first class, in which the committee had reason to believe that the debts claimed were due, contained thirty-six persons, of whom three were females, nine were native seamen, five were foreign seamen, and nineteen were tradesmen.

The second class consisted of those who appeared to be indebted in part only, of the amount for which they had been arrested ; and it comprised twenty persons, of whom four were native seamen, fifteen were foreign seamen, and one was a tradesman.

The third class, and in which it appeared to the committee, that no part of the debts for which the arrests had been made, was owing, comprised eighteen persons, of whom four were native seamen, nine were foreign seamen, and five were females.

These numbers amount to seventy-four ; but as two of the persons were comprehended in two of the classes, the actual number was seventy-two ; of these persons, forty-four were seamen, twenty were tradesmen, and eight were females.

Detailed statements of each of the cases remain with the committee for the inspection of the subscribers.

All the debts of the first class were paid or compromised. All the claims of the second class were compromised, to avoid the payment of costs ; but the proceedings with respect to the third class demand particular attention.

The number of arrests in the third class was eighteen : of these, three were compromised ; in which *something* did certainly, on more minute investigation, appear to be owing. Three of the causes were tried ; in one of which, the plaintiff obtained a verdict for about half the amount claimed ; and in the other two causes, the plaintiffs were unable to establish

any demand beyond the sums they had received, and the defendants obtained verdicts. In ten others of this class, the plaintiffs deserted their own proceedings, and judgments were signed against them. In none of these actions was the arrest justifiable; and in the last twelve causes, the plaintiffs are liable to pay costs, which (as far as they can be levied) will go to the increase of the fund. Of the remaining two arrests, the committee has done every thing in its power to bring the causes to a trial, but the plaintiffs have hitherto delayed their own proceedings.

In this third class, therefore, sixteen arrests have been disposed of for 27*l.* 11*s.*: two only remain; in which the sum demanded is 24*l.* But the debts claimed were 24*l.* 6*s.*

All the prisoners having been thus discharged, the committee directed its attention to the endeavour to ascertain whether these arrests continued to be made. And a comparison was entered upon, of the numbers of persons of all descriptions, who had been committed to the Borough Gaol for debt, for two months previous, and for two months subsequent to the anniversary.

From this comparison it resulted, that in two months preceding the 25th of October, fifty-six persons had been confined in the gaol, under arrests for debt, of which thirty-seven were seamen; but, that in the two months subsequent to that day, the number was thirty-nine, of which sixteen only were seamen; and from which it appeared, there had been a diminution in the arrests of seamen of nearly two-thirds, or of twenty-one in thirty-seven in two months. And it also appeared, that during the preceding year, the number of persons arrested for debt had gradually increased; but that, in the two months succeeding the 25th October last, corresponding with the two months of the preceding year, the numbers had considerably decreased.

The committee also proceeded to ascertain the number of persons confined in the gaol for debts on arrests, subsequent to the anniversary. A period of twelve weeks had then elapsed, and the gaol contained only nineteen persons, of whom five were seamen. The result cannot of itself give any just criterion; because many who had been released

on the anniversary would probably have still remained. But the relative number of seamen is a confirmatory fact, because for a considerable time past, and until the anniversary, the average number of persons had not been less than seventy, of whom a great majority were seamen; but the number of persons then was only nineteen, and of these only one-fourth were seamen.

If the superintendence of the committee has occasioned any part of this change, it must be gratifying to the subscribers to know, that the interest of the surplus fund subscribed on the occasion of the anniversary, amounting to about 800*l.* will probably be sufficient to continue hereafter, an examination of all the cases of arrests on which persons may be committed to the Borough Gaol, and to enable those who may appear to have been improperly arrested, to bring their cases fairly and expeditiously to a trial. And it may be confidently anticipated, that a steady perseverance in this measure will greatly, if not wholly, remedy the evil.

The following is a statement of the seventy-nine actions which were depending on the 25th October.

| Class. | Number of Actions. | Sums demanded. | | | Sums compounded for. | | |
|--------------------------|--------------------|----------------|----|----|----------------------|----|-----|
| | | £ | s. | d. | £ | s. | d. |
| 1 | 41 | 925 | 13 | 3 | 493 | 3 | 2½ |
| 2 | 20 | 298 | 3 | 0 | 173 | 10 | 10½ |
| 3 | 16 | 217 | 6 | 0 | 27 | 11 | 0 |
| | 2 | 24 | 0 | 0 | 24 | 0 | 0 |
| Costs at least | | 200 | 0 | 0 | | | |
| | 79 | 1,665 | 2 | 3 | 718 | 5 | 1 |

The compositions in the second class are proportionably higher than in the first class, the relative amounts of the debts being smaller as contrasted with the costs.

It would, however, be injustice to the professional gentlemen not to state, that, on making compromises, several declined to receive any costs, and that many have not taken more than their expenditure.

PUDSEY DAWSON,
Chairman.

A General Summary of the Proceedings of the Committee appointed to superintend the application of the Fund for the Relief of Debtors in the Borough Jail.

24th December, 1816.

At the last general meeting of the subscribers to the fund for the relief and discharge of debtors confined in the Borough Gaol, held in the Town Hall, on the 29th January, 1810,—It was reported, that the balance of the fund remaining, after discharging the seventy-two debtors on the fiftieth anniversary of his present Majesty's reign, was about 800*l.*; which sum was then ordered to be placed out at interest, and the interest thereof to be applicable, under the direction of a committee then to be appointed, to an enquiry into the cases of debtors confined in the Borough Gaol, and to affording to such as required it, a speedy and effectual trial.

A committee was then appointed, and on their first meeting ordered, that four debtors should have the benefit of the insolvent debtors' Act, and that seven others should be defended, and their cases brought to trial at the expense of the fund; which was accordingly done, and eight of those debtors obtained their discharge, at an expense to the fund of 62*l.* 19*s.* 3*d.*

The second meeting of the committee took place on the 3d April, 1810, when four debtors were ordered to have the benefit of the fund, which they had; and two were discharged, at an expense to the fund of 15*l.* 13*s.* 3*d.*

The third meeting of the committee was held on the 4th September, 1810, when twelve debtors were ordered to have the benefit of the fund, which they had; and ten of them were discharged, and the other two obtained relief under the insolvent debtors' Act, at an expense to the fund of 59*l.* 19*s.* 3*d.*

The fourth meeting of the committee was held on the 27th November, 1810, when twenty-two debtors were ordered to be assisted by the fund, which was accordingly done; and seventeen of them were in consequence thereof discharged, and four others obtained the benefit of the Insolvent Act, at an expense to the fund of 111*l.* 1*s.* 2*d.*

The fund, therefore, in the first year (1810) incurred an

expense in the whole of 249*l.* 12*s.* 11*d.* which discharged thirty-seven debtors, and obtained the benefit of the Act for six other debtors.

The fifth meeting of the committee was held on the 19th March, 1811, when four debtors were ordered to have aid from the fund, which was afforded them; and they were all discharged, at an expense to the fund of 22*l.* 4*s.* 9*d.*

The sum of 800*l.* was placed out at interest, on an eligible and approved mortgage security, made to the president, vice-president, and treasurer, on the 22d October, 1811.

The committee having far exceeded their means, in the expenses they had then incurred for the relief afforded to the debtors, as before stated; it was judged expedient to suspend their regular meetings, and their further enquiries into the cases of prisoners confined for debt in the Borough Gaol, until the interest arising from the 800*l.* so placed out on security, as before-mentioned, had reduced the debt they had incurred; particularly as it appeared, that the prompt and extended interference they had already ordered, had procured the effect and benefit which they expected to follow the proper application of the fund entrusted to them. They, therefore, have not since had any meeting.

The committee have, however, now reduced the expenses they had incurred by their former orders, out of the interest received for the money placed out on mortgage; and there is now a sum of 16*l.* 10*s.* 3*d.* in the hands of the solicitor, which will enable them again to resume their functions.

22d. January, 1819.

Since the foregoing Report, the Committee have resumed their meetings, and *fifteen* debtors have been discharged,

POSTSCRIPT.

February 1st, 1819.

I AM happy to have it in my power to lay before the reader, the latest account of the *State Prison, or Penitentiary* of Philadelphia; being an extract from the presentation of the Grand Jury for that county, in *December* last.

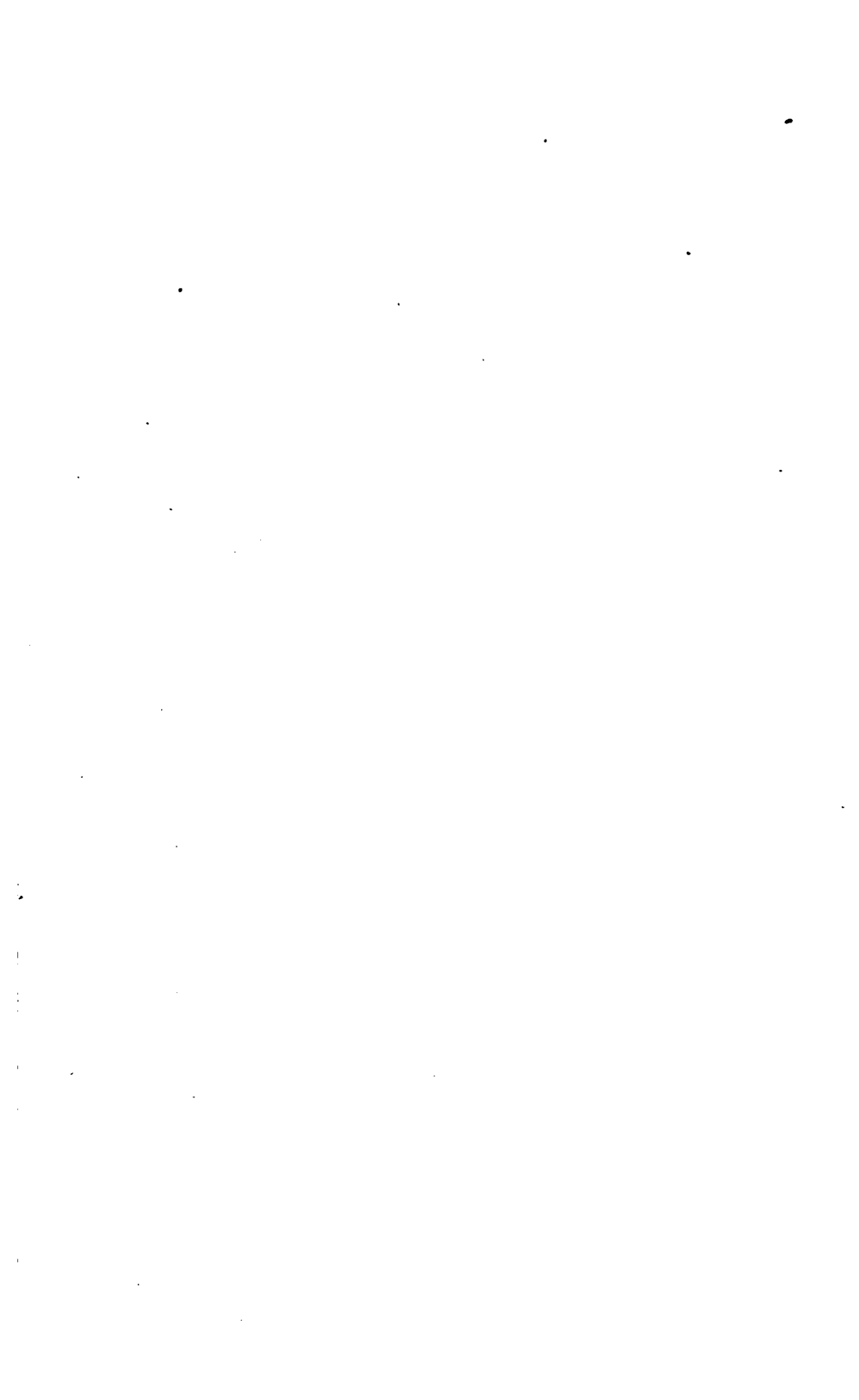
“ On viewing the state of the prison, we observed with pleasure, the greatest order and decorum ; the convicts appear to be well fed and cloathed, and their respective apartments comfortably warmed, and they are usefully employed in such vocations as are best adapted to their several capacities. This institution reflects the highest honour on the *inspectors*, and the keepers of the prison, and all who have any agency in its management. We nevertheless, have cause to regret, that a place more extensive, and more remote from the populous part of the city, cannot be fixed upon for a Prison and Penitentiary ; constructed on a more enlarged plan, better proportioned to the growing population of our county, and such other counties as send their convicts to this place, to accomplish the term of their servitude. If the buildings and *yard* were sufficiently capacious, the convicts might then be so separated, that the whites and the blacks as well as the youth of both sexes (who more particularly claimed our commiseration) should, as far as practicable, be separated from the more hardened offenders. By having

a house sufficiently roomy, and but few confined in the same lodging-rooms, less opportunities would be afforded for the more hardened and vicious to corrupt the morals of their fellow prisoners.

WILLIAM BINDER, *Foreman.*

Philadelphia,
Dec. 17th, 1818.

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